

# ACTS

PASSED AT THE ANNUAL SESSION

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF ALABAMA,

BEGUN AND HELD IN THE TOWN OF TUSCALOOSA, ON THE FIRST MONDAY IN  
DECEMBER, ONE THOUSAND EIGHT HUNDRED AND THIRTY-NINE.

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ARTHUR P. BAGBY, GOVERNOR.

GREEN P. RICE, PRESIDENT OF THE SENATE.

JOHN D. PHELAN, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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TUSCALOOSA:

.. HALE & EATON, STATE PRINTERS.

1840.

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# PUBLIC AND GENERAL LAWS OF ALABAMA.

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[No. 1.]

AN ACT

1839.

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To alter and amend the Charter of the Town of Irwinton, in Barbour County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the limits of the incorporation of said town shall be as follows, Limits of the Town. to wit: Beginning at the mouth of the Chewalla creek, where it empties into the Chattahoochie river, thence down said river to the mouth of John L. Hunter's spring branch, thence to Beattie's mill branch, at Shorter's brick yard, excluding said yard, thence direct to the house occupied by A. Treadwell, including said house, thence due west for a half mile, thence direct to Towlson's dwelling house, in Log Town, including said house, thence direct to Moore's mill on the Chewalla creek, excluding said mill, thence down said creek to the beginning of these limits.

Sec. 2. *And be it further enacted,* That the Intendant and Council of said town shall be elected as heretofore pointed out by law, Election. and shall be known and called by the name of the Intendant and Council of the Town of Irwinton, and in that name may sue and be Name and style. sued, and do all other acts which are consistent with the constitution and laws of the State.

Sec. 3. *And be it further enacted,* That in addition to the powers heretofore granted to said corporation, it shall have jurisdiction Additional powers granted. over all cases of affrays, assaults and batteries, all nuisances and gambling of every description, and power to preserve the peace and general good order of said town: and for the purpose of suppressing or punishing any of the offences herein mentioned, the said Intendant and Council, or a majority of them, shall have power to pass all by-laws, not incompatible with the laws of the State, and shall publish By laws. the same at three public places in said town; but no punishment shall be inflicted by said corporation, in any of the above cases, for the first offence, except by a fine which shall not exceed the sum of fifty dollars; and in all cases, the party charged with a violation of any by-law of the corporation, shall be cited by the Marshal or his deputy, to appear before the Intendant and Council, at a day named in the summons, to show cause why he should not be fined for his offence, which shall be set forth in the summons: and the said Intendant and Council shall, and they are hereby declared to be Justices of the Peace, *ex officio*, for all the purposes of hearing and determining.

any alleged violation of their by-laws, and entering appeals from their decisions to the circuit court of Barbour county, if the party charged shall ask for the same.

Clerk to issue execution. Sec. 4. *And be it further enacted*, That the Clerk of the corporation shall issue his execution for the amount of all fines assessed and cost, which shall be levied on the estate real and personal of the defendant by the Marshal, who shall give thirty days notice of the time and place of sale thereof, by advertisement in writing, at three public places in said town, which sale shall take place between the hours of ten and four o'clock of the day of sale.

Title: how executed. Sec. 5. *And be it further enacted*, That the sale of any property by the Marshal as aforesaid, shall vest in the purchaser all the interest in the same, which the defendant himself enjoyed or possessed; and a title to the same shall be executed to the purchaser, by the Marshal.

Tax levied. Sec. 6. *And be it further enacted*, That there shall be levied on the inhabitants of said town, by the by-laws of the Intendant and Council, if they see proper, a tax on all real estate and lots that may be improved or cultivated, not exceeding one per cent on the value thereof; and on all unimproved or uncultivated real estate or lots, a tax not exceeding the half of one per cent. on the value thereof: and in all cases the owner or occupant of any lot or real estate may give in the same to the Clerk of the Council, on oath, at his own estimate of the value thereof: and should he fail or refuse to do so, the Clerk of the Council shall have power to assess the same: and a tax may be levied on merchants' stock in trade, not exceeding the half of one per cent. on the value thereof: and on all retailers of spirituous liquors, not exceeding twenty dollars on each: on all lawyers and physicians, not exceeding four dollars; on all mechanics, not exceeding one dollar; on all public exhibitions and shows, not exceeding ten dollars; a poll tax of one dollar on each man; on all negroes residing, or usually employed in said town, over fifteen and under fifty years old, a tax not exceeding one dollar each; on all negroes of any other age, not exceeding fifty cents; on all taverns not exceeding five dollars, on all stallions, not exceeding four dollars. The stock in trade, of any merchant, to be assessed by himself on oath, if he choose, but if he fail or refuse, then by the Clerk of the Council.

Taxes: non-residents. Sec. 7. *And be it further enacted*, That in case of there being situated in said town, any real estate or lot, the owner of which is either not known to the Council, or not residing in the limits of the corporation, then, and in that case, the tax on the same may be assessed by the Clerk of the Council, and after thirty days notice, as herein before required, may be sold by the Marshal by execution, if the tax be not paid; which sale, and all sales herein authorized, shall vest in the purchaser, all the interest and title, to the property sold, which belonged to the party against whom the execution issued, at the time of the assessment of the property; nevertheless, in all cases where the owner of any lot is not known, and is taxed as such, the owner thereof may redeem the same, by the payment to the purchaser, of the amount of the purchase money, and paying the

Proviso.



tax on such lot, at any time within six months from the sale thereof; and in all cases, the Marshal shall give a description of the lot, or other property, in his advertisement of sale.

Sec. 8. *And be it further enacted*, That the Intendant and Council shall have power to keep open the streets and alleys of said town, and prevent all obstructions of the same, and to open such alleys as have, or shall hereafter be done, without their consent. Streets to be kept open.

Sec. 9. *And be it further enacted*, That the Marshal of said town shall have the right, at all times, to command the peace, and call to his assistance such help as may be necessary for the execution of his order. Marshal to command peace. &c.

Sec. 10. *And be it further enacted*, That the Intendant and Council shall have power, by their by-laws, to prevent the practice of shooting guns or pistols, in the limits of the said town, and to prevent all unnecessary and unreasonable noise and disturbance of the peace and quiet of the inhabitants thereof. Shooting, &c.

Sec. 11. *And be it further enacted*, That should an election for Intendant and Council fail to take place, at the time appointed by law, the same may be held at any time, on twenty days notice, given by the last Intendant. Election.

Sec. 12. *And be it further enacted*, That all laws, militating against this act, be and the same are hereby repealed. Repeal &c.

Approved, Dec. 29, 1839.

[No. 2.]

#### AN ACT

To revive an act passed the 31st December, 1822, to incorporate the Town of Jonesborough in the County of Jefferson.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, the town of Jonesborough, in the county of Jefferson, is hereby incorporated, with all the powers and privileges in the above recited act, which is hereby revived; any law or usage to the contrary notwithstanding. Act revived.

Approved, Jan. 1, 1840.

[No. 3.]

#### AN ACT

To amend an act to incorporate the Gainesville Female Academy.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Trustees of the Gainesville Female Academy, be, and they hereby are authorized and empowered to elect and add to their number, ten more persons, and that the persons so elected, and their successors, and the persons at present elected and their successors, together, constitute the Board of Trustees of said Academy, and have corporate capacity, under the name and designation already provided in the act to which this is an amendment: *Provided*, That a majority of the Trustees residing in the town of Gainesville, shall form a quorum for the transaction of all ordinary business. Additional number to be elected.  
Proviso.

Approved, Jan. 1, 1840.

[No. 4.]

## AN ACT

To repeal in part an act entitled an act to repeal in part an act now in force confining the collection of debts before a Justice of the Peace in the beat where the Defendant resides, or where the contract was made, and for other purposes, approved January 29th, 1839.

Repeal, &amp;c.

Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of the first section, of the above recited act, as relates to the counties of Conecuh and Shelby, be, and the same is hereby repealed.

Approved, Jan. 1, 1840.

[No. 5.]

## AN ACT

To incorporate a Female Academy, in the town of Livingston.

Name, &amp;c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Isaac Hadden, Willis Crenshaw, John H. Sherrod, John H. Boling, William H. Greene and M. C. Houston, and their successors in office, shall be, and are hereby created a body corporate and politic in law, by the name and style of the Trustees of the Livingston Female Academy; and by that name shall be capable in law, to sue and be sued, plead and be impleaded, and shall have power to borrow money, receive donations and bequests, purchase and sell, have and hold real estate and other property in perpetuity: *Provided,* the real estate shall not exceed twenty thousand dollars.

Powers, &amp;c.

Sec. 2. *And be it further enacted,* That said body corporate, or a majority of the members composing the same, shall have power to pass all such rules, regulations, and by-laws not inconsistent with the laws of the State of Alabama and of the United States, as they shall deem advisable for the good government and proper regulation of said academy, and all those connected therewith; and shall have power to appoint annually, and at stated meetings of the Board of Trustees, a President from the members of the Board, a Secretary and Treasurer, and other necessary officers, and to fill all vacancies in said offices at other meetings of the Board called therefor; and to have and use a common seal, and the same to alter and amend at pleasure, and without seal.

Officers.

Vacancies.

How filled.

Sec. 3. *And be it further enacted,* That when any vacancy shall happen in said board, the same shall be filled by the remaining Trustees or a majority of them.

Exempt from taxes.

Sec. 4. *And be it further enacted,* That the property of said corporation shall be exempt from any taxes whatever.

Approved, Jan. 15, 1840.

[No. 6.]

## AN ACT

To regulate the collection of debts due by the purchasers of Sixteenth Sections.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be lawful for the President and Directors of the Bank of the State of Alabama, or of

the proper Branch thereof, on the recommendation of the Commissioners of the proper township, in the collection of debts due or to become due on a sale of any Sixteenth Section, to give such further time of payment on such debts as in their opinion, the interest of the townships and of the purchasers of said sections respectively require: *Provided*, the title to land sold as aforesaid, shall never be divested out of the township until the final payment of the whole debt and interest: *Provided, also*, new notes shall be given by the applicant for extension, and the interest paid annually, as now required by law, according to such forms and under such regulations as said Presidents and Directors may prescribe.

Sec. 2. *And be it further enacted*, That it shall be lawful for the commissioners of the several townships in this State, to receive the interest due from purchasers of Sixteenth Sections in this State and receipt for the same, which receipts shall be good and sufficient evidence to the holder thereof, that said interest has been paid.

Sec. 3. *And be it further enacted*, That the provisions of this act shall apply to all cases where judgments have been obtained, or where suits have been commenced upon Sixteenth Section notes: *Provided*, That the parties to any such judgments or suits, shall pay up all the costs which shall have accrued upon the same at the time of taking the benefit of this statute.

Sec. 4. *And be it further enacted*, That the ultimate period of payment upon the notes or debts embraced in this statute, or any section thereof, shall in no event be extended beyond four years.

Approved, Jan. 16, 1840.

[No. 7.]

### AN ACT

To Incorporate a Male and Female Academy.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That there shall be established at Spring Grove, in the county of Russell, an Academy to be called and known as the Spring Grove Male and Female Academy, and that Lemuel Ingram, Jesse Carpenter, William Wootten, Robert Jelks, William Jasper Grigg, Dr. M. D. Grant, Edward Chadwick and John B. Tate, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Spring Grove Male and Female Academy, and as such, shall be capable and liable in law, to sue and be sued, to plead and be impleaded, and shall be authorized to make such laws and regulations as shall be necessary for the government of said academy: *Provided*, that such by-laws and regulations are not repugnant to the constitution and laws of this State, and for that purpose may have and use a common seal, and appoint such officers as they may think proper, and remove the same from office for improper conduct or neglect of duty.

Sec. 2. *And be it further enacted*, That the Trustees aforesaid, shall be capable of accepting and being invested with all manner of property, both real and personal, all donations, gifts and immunities, whatsoever, which may belong and appertain to said institution, or

which may hereafter be conveyed or transferred to them, or their successors in office, to have and to hold the same for the proper use and benefit of said Academy, not exceeding thirty thousand dollars.

Vacancies  
how filled.

Sec. 3. *And be it further enacted*, That whenever any vacancy may occur, by death, resignation or otherwise, of any of the Trustees of said Academy, the remaining Trustees shall fill such vacancy in such manner as shall be pointed out, by the by-laws and regulations of said Incorporation.

Free from  
taxation.

Sec. 4. *And be it further enacted*, That all property owned by the Trustees, for the benefit of said Academy, shall be free from taxation.

Incorporation

Name and  
style.

Powers gran-  
ted,

Sec. 5. *And be it further enacted*, That Jeremiah McKisick, Nathaniel Pitts, Jacob Jordan, James Sherman and Wyley J. Gipson, be, and they are hereby incorporated Trustees of Warcoochee Academy, in the county of Russell, and are hereby declared to be a body politic and corporate, by the name and style of the Warcoochee Academy, and are hereby invested with all the powers and privileges, as Trustees of said Academy, that are extended and granted in the foregoing sections of this act, to the Trustees of Spring Grove Academy.

Approved, Jan. 16, 1840.

[No. 8.]

## AN ACT

To incorporate the Chappel Hill Academy.

Incorporation

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Academy known as the Chappel Hill Academy, in the county of Pickens, be, and the same is hereby incorporated, and that Wm. Owens, Wright W. Manning, Thomas H. Wilson, Archibald Hood, Hamilton McGowen, and Bennet Atkinson, and their successors in office, be, and they are hereby declared to be a body corporate, by the style and the name of the Trustees of Chappel Hill Academy; and as such, shall be liable and capable in law and in equity to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy: *Provided*, That such by-laws are not repugnant to the constitution and laws of this State and of the United States; and may have and use a common seal, appoint such officers as they may think proper, and remove the same from office for improper conduct or neglect of duty.

Proviso.

Have power  
to hold prop-  
erty.

Proviso.

Sec. 2. *And be it further enacted*, That the said body corporate be privileged to accept of, and be invested with all manner of property, either real, personal, or mixed, which may have been made or granted to said institution, or which may hereafter be made or granted to them or their successors in office, to have and to hold the same, for the proper use, benefit and behoof of said Academy: *Provided, however*, That the value of the real estate owned by said body corporate, shall not exceed ten thousand dollars.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation, or otherwise, of any of the Trustees of said Academy, the residue of said Trustees shall fill the same in such

manner as shall be pointed out by the by-laws and regulations of said corporation, and that a majority of said board of Trustees shall be competent to transact all business pertaining to said corporation, and their acts shall be valid and as binding as if the whole board were present. Vacancies.

Approved, Jan. 18, 1840.

[No. 9.]

### AN ACT

In relation to Clerks Fees.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall not be lawful for the Clerk of the Circuit or County Court, of any county in this State, to charge for the examination of the books and papers in his office, Examining books, &c. where the person or persons desiring to make such examination, is the executor, administrator, or other person, as the representative of the executor or administrator of any deceased clerk.

Sec. 2. *And be it further enacted,* That all laws contrary to the provisions of this act, be, and the same are hereby repealed: *Provided,* Proviso. That the provisions of this act shall not extend to the county of Mobile, or the county of Russell. Approved, Jan. 18, 1840.

[No. 10.]

### AN ACT

To change the time of convening the General Assembly of the State of Alabama.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the time of convening the General Assembly of this State, shall be on the first Monday in November, 1840, and on the first Monday of November in each and every year thereafter, in lieu of the first Monday in December. Time of convening Gen'l Assembly.

Sec. 2. *And be it further enacted,* That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed. Approved, January 27, 1840.

[No. 11.]

### AN ACT

Relating to the Testimony of Witnesses in certain cases.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in all civil suits, now or hereafter depending in the courts of this State, wherein any party, plaintiff or defendant, shall desire the testimony of any person, who is at the time a Judge, Chancellor, Clerk, or Register, of any of the courts of law or equity in this State, or is at the time a practicing physician, the party so desiring such testimony, may, on making affidavit by himself, his agent, or attorney, of the materiality of the testimony of such proposed witness, and that he is Judge, Chancellor, Clerk, Register, or practicing physician, as aforesaid, procure a commission, and proceed to take the deposition of such witness, to be used, in the trial of said cause, in the same way and manner, and on like notice, as now provided for the taking of depositions of witnesses residing without the limits of this State. Depositions, in certain cases.

Approved, January 28, 1840.

[No. 12.]

## AN ACT

To fix the rate of interest to be paid by the State Bank and its several Branches on the Sixteenth Section School Fund deposited with them.

3 per cent.  
interest.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the Bank of the State of Alabama and its several Branches, be, and they are hereby required to pay to the commissioners of the sixteenth section, annually, eight per cent interest and no more, upon the school funds deposited with them.

Approved, Jan. 28, 1840.

[No. 13.]

## AN ACT

To recall and cancel the unsold Bonds issued by the State.

Unsold bonds  
to be recall'd.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the President of the State Bank and the Presidents of the several Branches, be, and they are hereby required and instructed to recall all the unsold Bonds issued by the State.

To be cancel-  
ed.

Sec. 2. *And be it further enacted,* That the said Presidents are hereby instructed to hand over the unsold Bonds as soon as they receive them to the Governor, Secretary, Comptroller and Treasurer, for the purpose of canceling the same.

Sec. 3. *And be it further enacted,* That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 29, 1840.

[No. 14]

## AN ACT

To Incorporate the Planters' Hotel, in the City of Montgomery.

Incorporation

Name and  
style.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Charles T. Pollard, William Knox, F. M. Gilmer, Jr. B. S. Bibb, Abner McGehee, and their associates and successors in office, be, and they are hereby constituted a body corporate, in deed and law, by the name and title of the Planters' Hotel Company of Montgomery; and the said corporation by their name shall be entitled to all the privileges and benefits, and shall be subject to the same limitations and restrictions, to be found in an act entitled an act to incorporate the Montgomery Hall Company, passed January 10th, 1833.

Approved, January 29, 1840.

[No. 15.]

## AN ACT

To authorize the taking of depositions in certain cases, and for other purposes.

Forms, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the same forms and rules now established by law, for the taking of depositions in other cases, shall apply to and govern all depositions taken under this act.

Sec. 2. *And be it further enacted,* That whenever it may become necessary, in any civil case pending or to be instituted, in any

of the Courts of this State, to have the testimony of any female witness, the same shall be taken by deposition, whether the said female witness live in the county where the said cause is pending or not. Taking depositions.

Sec. 3. *And be it further enacted*, That if any person whose evidence is required by either party, shall fail or refuse to appear before the commissioner legally appointed to take such evidence, and give testimony, she shall be fined in a sum not exceeding one hundred dollars, at the discretion of the Court in which said cause is pending, and be liable to an action at the suit of the party aggrieved, to the amount of the damages sustained by said party. Refusal to appear, &c.  
Penalty.

Approved, Jan. 30, 1840.

[No. 16.]

### AN ACT

To incorporate the Dadeville Male Academy.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and immediately after the passage of this act, that William F. Bass, James W. Townsend, John R. Slaughter, Solomon Heydenfeldt, John J. Holley, Simeon Goolsby and Leroy Gresham, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Dadeville Male Academy; and as such, may sue and be sued, plead and be impleaded, may have a common seal, and may make such by-laws and regulations as shall be necessary for the government of the Dadeville Male Academy, appoint such officers as they may think proper, and remove the same from office, and shall have continual succession. Name and style.

Sec. 2. *And be it further enacted*, That the Trustees aforesaid, shall be capable of accepting and being invested with all manner of property, real and personal, all donations, gifts, privileges and immunities whatever, which may belong to said institution, or which may hereafter be conveyed or transferred to them, or their successors in office, to have and to hold the same for the proper use and benefit of said Academy. May hold property.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation or otherwise, of any of the Trustees of the Dadeville Male Academy, the survivors, or the remaining Trustees shall fill the same in such manner as shall be pointed out by the by-laws and regulations of the said incorporation. Vacancies.

Sec. 4. *And be it further enacted*, That all property owned by the said Trustees not exceeding in value, five thousand dollars, and for the benefit of said Academy, shall be free from taxation. Free from taxation.

Approved, Jan. 30, 1840.

[No. 17.]

### AN ACT

To establish the Tenth Judicial Circuit of the State of Alabama.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the counties of Mobile, Baldwin and Conecuh, shall hereafter form and compose a Judicial Circuit, to be called the Tenth Judicial Circuit of the State of Alabama, and for which a Circuit Judge shall be elected, who shall reside in and be located in said circuit. Tenth Circuit created.

Addition to  
First Circuit.

Sec. 2. *And be it further enacted*, That the counties of Marengo and Perry, be and they are hereby added to the First Judicial Circuit, and shall hereafter compose a part of the same.

Solicitor.

Sec. 3. *And be it further enacted*, That the present Solicitor of the First Judicial Circuit, shall be Solicitor of the Tenth Circuit, created by this act, for and during the unexpired term of his office; and that the present Solicitor of the Second Circuit, shall be Solicitor of the First Circuit, for and during the unexpired term of his office.

Approved, Jan. 31, 1840.

[No. 18.]

# AN ACT

To Incorporate the Town of Eutaw, in the County of Greene.

Corporation.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened*, That the town of Eutaw, in the county of Greene, be, and the same is hereby incorporated, and all the territory lying within half a mile of the Court House square, and within a quarter of a mile on each side of the road leading through Mesopotamia, as far as Trussell's Ferry Road, near R. G. Steel's house, is hereby declared to be within the limits of said corporation.

Election,  
when held.

Sec. 2. *And be it further enacted*, That immediately after the passage of this act, and on the first Monday in January in each and every year thereafter, at some public place in said town, an election shall be held for an Intendant and four Councillors, who shall be resident freeholders in said town, and who shall hold their offices until their successors are qualified: That the first election shall be held by two freeholders or householders of said town, who shall be qualified by some acting Justice of the Peace, to conduct the said election fairly and impartially, and to give certificates of election to those having the highest number of votes, and every succeeding election shall be held by any two of the acting Councillors.

Intendant to  
preside.

Name and  
style.

Sec. 3. *And be it further enacted*, That it shall be the duty of the Intendant when present, to preside at all meetings of the Board, to preserve order, to enforce the laws of the corporation; but a majority of the Board shall be competent to transact business: And the said Board is hereby declared to be a body politic and corporate, by the name of the Intendant and Council of Eutaw; and by that name shall have and enjoy all rights, powers and privileges, and be subject to all the liabilities that are incident to bodies corporate.

Qualification  
of voters.

Sec. 4. *And be it further enacted*, That all free white male citizens, over twenty one years of age, who shall have been residents of said town for three months immediately preceding any election for Intendant and Councillors, and who shall have paid all fines which may have been assessed against them by said corporation, shall be entitled to vote at said elections.

By-laws, &c.

Sec. 5. *And be it further enacted*, That the said Board shall have full and complete power to make all by-laws and ordinances of whatever kind, and upon whatever subject to them may seem right and proper for the good government of said town; to lay and collect taxes to defray the expenses of the corporation, not exceeding the county tax on the same kind of property taxed by the county; to



affix such fines not exceeding twenty dollars, and imprisonment in the county jail not exceeding twenty-four hours, for any one transgression as may by them be deemed necessary to enforce a due observance of the laws and ordinances of said corporation, not repugnant to the laws of this State. Fines, &c.

Sec. 6. *And be it further enacted*, That the Intendant of said corporation shall be, *ex officio*, Justice of the Peace, for all purposes connected with said corporation and the enforcement of its laws; may exercise all the powers, and shall be subject to the same duties and liabilities of Justices of the Peace of the county of Greene, and shall be entitled to receive for all services touching the violation of any of the laws and ordinances of said corporation double the fees, and in all other cases, the same fees now allowed by law, to Justices of the Peace. Intendant *ex officio* justice of the peace.  
Fees.

Sec. 7. *And be it further enacted*, That the said Board shall have power to supply all vacancies happening in their body between the regular elections; to appoint a Treasurer, a Constable, and such other officers as they may require, and to affix such fees and regulations to such offices as they may deem necessary and proper. Vacancies. &c

Sec. 8. *And be it further enacted*, That the Intendant or any Councillor shall have full power to punish all violations of the laws and ordinances of said corporation, and all offenders shall be proceeded against in such manner as may be prescribed in the ordinances by execution against persons and property. Powers.

Sec. 9. *And be it further enacted*, That if from any cause an election should not be held for Intendant at the time herein prescribed, that any two of the Councillors or Intendant may advertise some other convenient day when the said election shall be held. Election.

Sec. 10. *And be it further enacted*, That the Intendant and each of the Councillors shall, before they enter upon the discharge of their duties, take an oath faithfully and impartially, without fear, favor or affection, to discharge the same, which oath shall be administered by the Intendant or any one of the Councillors: *Provided*, that nothing in this act contained shall be so construed as to repeal any part of, or impair any privilege exercised under an act entitled an act to Incorporate the Mesopotamia Male and Female Academy, passed December 23, 1836. Oath of office  
Proviso.

Approved, Jan. 31, 1840.

[No. 19.]

### AN ACT

To prevent Retailing Spirituous Liquors without a License.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be the duty of the several Justices of the Peace in this State, whenever they know of their own knowledge, or whenever information comes to them on oath, that any individual or person is retailing any kind of spirituous liquors without a license, to issue his warrant forthwith against such offender or offenders, and bind him or them to the next term of the Circuit Court to be holden for said county, there to answer according to law. Justices of the peace to bind over, &c

Approved, Feb. 1, 1840.

[No. 20.]

## AN ACT

To declare the Locust Fork of the Black Warrior river a Public Highway.

Locust Fork  
declared a  
public high-  
way.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Locust Fork of the Black Warrior river, from its junction with the Sipsey Fork in the county of Jefferson, to Harrison's Ferry in the county of Blount, is hereby declared a public highway.

Penalty for  
obstructing.

Sec. 2. *And be it further enacted,* That if any person or persons shall obstruct the navigation of said river, by building milldams, felling trees, or in any other way, such person or persons shall forfeit and pay the sum of five hundred dollars, one half to the State and the other half to any person who may sue for the same, recoverable before any court of law having jurisdiction of the same, and shall forfeit and pay all damages which any person or persons may sustain by reason of such obstruction, recoverable in like manner; and all such obstructions may be removed by order of the County or Circuit Court of said counties, on the application of any one or more persons.

Approved, Feb. 1, 1840.

[No. 21.]

## AN ACT

To be entitled an act to enforce the duties of Clerks of the Circuit and County Courts in this State.

To enforce  
duties of  
Clerks, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That when any Judgment from a Circuit or County Court in this State shall be revised by the Supreme Court, if it shall appear from an inspection of the transcript of the record, that the defect in the proceedings of the Court below, on account of which such Judgment is reversed, was occasioned by the negligence or carelessness of the Clerk of such Court, said Supreme Court may forthwith render such judgment against said Clerk, as is now required by law to be rendered against the defendant in error, for the costs of the Supreme Court.

Approved, Feb. 1, 1840.

[No. 22.]

## AN ACT

Supplemental and amendatory to an act entitled, an act to Apportion the Representatives among the several Counties in this State, and to divide the State into Senatorial Districts, according to the late Census, approved February the 2d, 1839.

Shelby and  
Bibb.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the above recited act, shall be so amended as to make the Sheriff of Bibb County, the returning officer for the Senatorial District composed of the Counties of Shelby and Bibb; and it shall be the duty of the Sheriff of the County of Shelby to make returns of the election for senator holden in said county, within ten days after said election, to the Sheriff of Bibb county; and it shall be the duty of the returning officer of the district aforesaid, to compare the returns made to him as aforesaid, and give a certificate to the candidate elected, as is now provided by law. Approved, February 1, 1840.

[No. 23.]

## AN ACT

To provide for the Appointment of Guardians in certain cases.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter, whenever there may be any minor in any county for whom no well qualified person can be procured to act as guardian, the Judge of the County Court shall appoint the sheriff of the county guardian, who shall be required to take the guardianship of such minor. Appoint guardian.

Sec. 2. *And be it further enacted,* That the guardianship of all minors, as provided for in the first section, shall attach to the office of the Judge of the County Court and not to the person of sheriff, and it shall be the duty of the Judge of the County Court to require of the sheriff additional bond and security, whenever in his opinion, it may be necessary or proper. Guardianship

Sec. 3. *And be it further enacted,* That whenever any well qualified person can be procured to take the guardianship of any minor, to whom the sheriff may have been appointed guardian under the first section, it shall be the duty of the Judge of the County Court to discharge the sheriff, and give the guardianship to such other well qualified person. Court may appoint, &c.

Approved, February 1, 1840.

[No. 24.]

## AN ACT

To Incorporate Franklin Academy, in the County of Franklin.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Isaac Lane, William S. Moore, Alexander M. Kellar, Nathaniel J. Pride, James G. Mhoon, Armistead Barton, and William S. Mhoon, and their successors in office, shall be, and are hereby declared and created a body corporate and politic in law, by the name and style of the Trustees of the Franklin Academy; and by that name shall be able and capable in law, to sue and be sued, plead and be impleaded, receive donations, make contracts to purchase and sell, have, hold and enjoy, real and personal property, to an amount not exceeding fifty thousand dollars; and any four shall constitute a quorum to do business. Incorporation Name and style. May hold property.

Sec. 2. *And be it further enacted,* That said body corporate, shall have power to pass all such by-laws, rules, and regulations, not inconsistent with the constitution and laws of this State, as they may deem advisable for the government and conduct of said academy, and for the government of their own body; and shall have power to appoint one of their own body president thereof, and also to appoint a secretary and treasurer, as well as all other necessary officers of said institution; said officers all to be elected and removed at the pleasure of said board of trustees, and the removal from the county of Franklin, of any member of said board, shall be considered as a resignation of his place as a trustee; and said board of trustees shall have power to fill all vacancies that may occur in their own body, by death, removal, resignation, refusal to act or otherwise; and may have a seal to be used at their discretion. May pass by-laws, &c. Officers. Vacancies.

Approved, February 1, 1840.

[No. 25.]

## AN ACT

Concerning the Commissioners' Courts of Roads and Revenue.

May hold  
Courts in ab-  
sence of  
Judges.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall and may be lawful for the Commissioners of Roads and Revenue, in each and every county in this State, to hold their respective courts, notwithstanding the absence of the Judge or Judges of the County Courts, on the first day of their regular terms, any law, usage, or custom, to the contrary notwithstanding.

Approved, Feb. 1, 1840.

[No. 26.]

## AN ACT

To repeal in part an act in relation to Free Negroes and Persons of Color.

Repeal.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sixth and seventh sections of an act entitled "an act the more effectually to prohibit Free Negroes and persons of Color, from entering into and remaining in this State," approved February second, one thousand eight hundred and thirty-nine, be, and the same is hereby repealed.

Approved, Feb. 1, 1840.

[No. 27.]

## AN ACT

To Incorporate the Trustees of Montpelier Academy, in the county of Lowndes.

Name and  
style.

Property. &amp;c.

May pass by-  
laws.

Officers.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That S. W. Bowie, Laban Warren, J. H. Robinson, W. R. Haygood, J. H. Luckie, H. Haygood, Stewart Farley and N. Maynard and their successors in office, be, and are hereby created a body politic and corporate in law, by the name and style of the Trustees of Montpelier Academy; and by that name shall be capable in law to have and keep a perpetual succession, to sue and be sued, plead and be impleaded in any court or courts in this State; and shall also have power to borrow money, receive donations and bequests, and purchase and sell, and have and hold real estate and other property, real, mixed or personal, in perpetuity; the real estate so had and held not to exceed the value of ten thousand dollars.

Sec. 2. *And be it further enacted,* That said body corporate, or a majority of the members composing the same, shall have authority and power to pass all such rules, regulations and by-laws, not inconsistent with the constitution and laws of the United States, and of this State, as they shall deem advisable for the government of said corporation, and the government and control of said Academy, and all those persons who are now or may hereafter become connected therewith; and shall have power to appoint, annually, at stated meetings of said Trustees, one of their members President thereof, and also a Secretary, Treasurer, and other necessary officers, at their own discretion, who shall hold their offices as shall be prescribed by the by-laws of said corporation; but is hereby expressly provided, that any officer shall be liable to removal at any time, by said corporation, for malfeasance in office; and said corporation may have

and use a common seal, with such device as to them shall seem proper, with full power to alter and amend the same at any time : *And Provided*, That when without such common seal, the private seal of the President or Secretary, shall, and is hereby declared to be as effectual for all purposes in law or equity.

Sec. 3. *And be it further enacted*, That vacancies either in the Board of Trustees or in any other office, shall be filled as may be provided for in the by-laws of said corporation. Vacancies.

Sec. 4. *And be it further enacted*, That the property held by said corporation, being for the purposes of education, shall be exempt from State, or county, or other taxation. Taxes, free.

Approved, Feb. 1, 1840.

[No. 28.]

### AN ACT

To revive an act therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an act approved on the 30th day of June, 1837, entitled an act to incorporate the town of Newmarket, in the county of Madison, be, and the same is hereby revived and continued in full force. Revived.

Sec. 2. *And be it further enacted*, That there shall be held at some suitable place, in said town, an election on the second Monday in March, 1840, and annually thereafter, the polls to be opened at eleven o'clock in the forenoon, and closed at two o'clock in the afternoon, for the purpose of electing, by ballot, five Councillors, inhabitants of said town, who shall serve for the term of one year after they shall have been elected ; the first election shall be managed by any justice of the peace of said county, and John Jones and Peter C. Webster of said town of Newmarket ; and all subsequent elections shall be managed by any justice of the peace for said county of Madison, and any two persons who shall be appointed by the board, for that purpose. Elections.

Sec. 3. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed. Repeal, &c.

Approved, February 1st, 1840.

[No. 29.]

### AN ACT

To give the Judges of the County Courts in this State the power to grant Certioraris returnable to the Circuit Courts.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, that the Judges of the County Courts of their respective counties, shall have the power to grant Certioraris returnable to the Circuit Courts, in the same manner that they are allowed to grant the same, returnable to their own courts. County Court to grant Certioraris.

Sec. 2. *And be it further enacted*, That all laws and usages contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 30.]

## AN ACT

To incorporate the Pleasant Hill Academy, in the County of Butler.

Body politic.  
Name and  
style.

Proviso.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, that the Academy in Butler county, now known as the Pleasant Hill Academy, shall be so known and designated; and that John Payne, Jeremiah Gafford, James R. Thompson, David Gafford, and Hillery Herbert, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Pleasant Hill Academy; and as such shall be capable and liable in law to sue and be sued, to plead and to be impleaded, and shall be authorized to make such laws and regulations as shall be necessary for the government of said Academy: *Provided,* That such by-laws and regulations are not repugnant to the constitution and laws of this State, and for that purpose may have and use a common seal, appoint such officers as they may think proper, and remove the same from office for improper conduct or neglect of duty.

May hold prop-  
erty.

Sec. 2. *And be it further enacted,* That the Trustees aforesaid shall be capable of accepting, and being invested with all manner of property, both real and personal, all donations, gifts, and immunities, whatsoever, which may belong and appertain to said Institution, or which may hereafter be conveyed or transferred to them, or their successors in office, to have and to hold the same, for the proper use and benefit of said Academy, not exceeding thirty thousand dollars.

Vacancies.

Sec. 3. *And be it further enacted,* That whenever any vacancy may occur, by resignation, death, or otherwise, of any of the Trustees of said Academy, the remaining Trustees shall fill such vacancy, in such manner as shall be pointed out by the laws regulating said incorporation.

Free from  
taxation.

Sec. 4. *And be it further enacted,* That all property owned by the Trustees for the benefit of said Academy, shall be free from taxation.

Approved, Jan. 31, 1840.

[No. 31.]

## AN ACT

To incorporate the Benton Male and Female Academy.

Incorporation

Name and  
style.  
Capability of  
Trustees.

Proviso.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an Academy be, and the same is hereby incorporated in the county of Benton, to be styled the Benton Male and Female Academy; and that Robert S. Porter, Jonathan Whitesides, Elijah Kerr, John Warthington, Arthur Crozier, William Garrett, and William Williamson, and their successors in office, be, and they are hereby declared to be a body corporate and politic, by the name and style of the Benton Male and Female Academy; and as such shall be capable and liable in law and equity, to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations as shall be necessary for the Government of said Academy: *Provided,* such by-laws are not repugnant to the laws and constitution of this State, and of the United States; and for that purpose

may have and use a common seal, and appoint such officers as they may think proper, and remove the same for improper conduct or neglect of duty.

Sec. 2. *And be it further enacted*, That the said Trustees or body corporate, shall be privileged to accept of, and be invested with all manner of property, either real, personal, or mixed; also all donations, gifts, grants, privileges and immunities, whatsoever, which may be made or granted to said institution, or which may be hereafter made, conveyed, or transferred to them, or their successors in office, to have and to hold the same, for the proper use, benefit, and behoof of said Academy. Have power to hold property.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation, or otherwise, of any of the Trustees of said Academy, the survivors or the residue of said Trustees shall fill the same, in such manner as shall be pointed out by the by-laws and regulations of said incorporation. Vacancies.

Sec. 4. *And be it further enacted*, That all property owned by said Trustees, in their aforesaid corporate capacity, shall be vested with such body corporate in perpetuity for the use of said Academy, and shall be, and is hereby declared free from taxation. Exempt from taxes.

Approved, Feb. 1, 1840.

[No. 32.]

#### AN ACT

To incorporate the Cane Creek Male and Female Academy, in the County of Benton.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an Academy, be, and the same is hereby incorporated in the county of Benton, to be styled, the Cane Creek Male and Female Academy; and that John T. A. Hughes, John A. Findlay, William Marfiet, Zion Goodlett and John Renfro, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Cane Creek Male and Female Academy; and as such shall be capable and liable in law and equity, to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy: *Provided*, such by-laws are not repugnant to the laws and constitution of this State, and of the United States, and for that purpose may have and use a common seal, and may appoint such officers as they may think proper, and remove the same for improper conduct or neglect of duty. Incorporation.

Sec. 2. *And be it further enacted*, That the said Trustees or body corporate, shall be privileged to accept of, and be entrusted with all manner of property, either real, personal or mixed; also all donations, gifts, grants, privileges and immunities, whatsoever, which may be hereafter made, conveyed or transferred to them, or their successors in office, to have and to hold the same for the proper use, benefit and behoof of said Academy. Name and style.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation or otherwise, of any of the Trustees of said Academy, the survivors, or the residue of said Trustees, shall fill the Proviso.

Officers.

May hold property.

Vacancies.

same in such manner as shall be pointed out by the by-laws and regulations of said incorporation.

Exempt from  
taxes.

Sec. 4. *And be it further enacted*, That all property owned by said Trustees in their aforesaid corporate capacity, shall be vested with such body corporate in perpetuity for the use of said Academy, and shall be and it is hereby declared free from all taxation.

Approved, Feb. 3, 1840.

[No. 33.]

#### AN ACT

To revive an act to Incorporate the town of Prairie Bluff, in the county of Wilcox.

Act revived.

Election.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the above recited act, be, and the same is hereby revived, and that Thomas E. Ellis, Robert Hall, Samuel Pitts, E. O. Johnson, and William J. Dexter, or any three of them, be, and they are hereby authorized to hold an election, on the first Monday in March next, or as soon thereafter as may be convenient, for the purpose of electing five Councillors for said town, and that the said election be conducted in the manner prescribed by the act to which this is an amendment; and that all acts and parts of acts, conflicting with the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 3, 1840.

[No. 34.]

#### AN ACT

To Incorporate the Clayton Male and Female Academy.

Name and  
style.

Proviso.

To hold prop-  
erty.

Proviso.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John Jackson, Robert T. White, O. J. Williams, E. J. Cole, John Petty, Henry M. Tompkins, and J. McCaleb Wiley, and their successors in office, be, and they are hereby declared to be a body politic and corporate, in deed and in law, by the name and style of the President and Trustees of the Clayton Male and Female Academy; and as such, shall be capable and liable in law, to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy: *Provided*, That such by-laws and regulations are not repugnant to the laws of this State.

Sec. 2. *And be it further enacted*, That said Trustees shall be capable of accepting, and being invested with all manner of property, real and personal, all donations, gifts, grants, privileges and immunities, whatsoever, which may belong to said institution, or which may hereafter be conveyed or transferred to them, or their successors in office, to have and to hold the same, for the proper benefit and use of said Academy: *Provided*, That said company shall never possess at any one time, more real estate, than of the value of twenty thousand dollars: *And Provided further*, That said property shall be exempt from taxation, and that said corporation shall not exercise banking powers.

Sec. 3. *And be it further enacted*, That the before named Board of Trustees, shall have power to appoint a President, Secretary and



Treasurer, and such other officers, directors or visitors, as they may deem necessary or expedient, for the good government and well being of said institution, and to prescribe the duties of each, to grant such rewards, or confer such honors on graduates, as to them may seem expedient, to have and use a common seal, and the same to break, alter or renew at pleasure. Officers.

Sec. 4. *And be it further enacted*, That all vacancies, which may occur in the said Board of Trustees, from any cause, shall be filled by a majority of those remaining; Trustees so appointed, shall have all the powers vested in the Trustees appointed by this act. Vacancies, &c.

Sec. 5. *And be it further enacted*, That the Trustees appointed by this act, be authorized to receive the donations made by the State, under the law passed January 31, 1839, for the benefit of sixteenth sections, which is embraced in the township in which the Clayton Male and Female Academy is situated, to wit: in the tenth township, twenty-sixth range, in Barbour county; and the Trustees hereby appointed, shall have all the powers, and shall perform all the duties, now required by the existing laws in relation to the said township, to be performed by the school commissioners now appointed for said township. May hold property.

Sec. 6. *And be it further enacted*, That hereafter, it shall not be lawful to appoint any other commissioners for said township, but that the superintendence and emoluments, arising from the said sixteenth sections, shall be, and they are hereby vested in the Trustees appointed by this act, for the benefit of said Academy. Powers, &c.

Sec. 7. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 3, 1840.

[No. 35.]

### AN ACT

To incorporate the Catholic Charitable Female Society of Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the association of individuals formed in Mobile, and commonly known and designated as the Catholic Female Charitable Society of Mobile, and the individuals composing the same, and their successors, are hereby declared to be a body politic and corporate, under the name and style of the Catholic Female Charitable Society of Mobile; which corporation is hereby created for the purpose of enabling the said association to establish and support an asylum for poor children and orphans, a free school and such other charitable and benevolent objects, as they may think fit; and said body politic shall have perpetual succession of officers and members. Body politic.

Sec. 2. *And be it further enacted*, That the officers and members of the said corporation, and their successors, shall have power to adopt, establish, ordain, and make such rules and regulations, by-laws and ordinances for the admission of new members thereof, and of the qualifications of the members generally, and for the government of the said Society, and of the officers and members thereof, from time to time, as they shall think proper, for the purpose of effecting and Powers.

Proviso.

promoting the objects for which the association was formed, and to alter the same at their pleasure; and shall and may have a common seal, which they may break and alter at pleasure; and shall have all the necessary powers to carry the objects of the said association into full effect: *Provided*, that such rules and regulations shall not be repugnant to the constitution and laws of the United States or of the State of Alabama.

Officers to become guardians.

Sec. 3. *And be it further enacted*, That the said corporation, by its President and officers, and under its by-laws, shall have power, with the consent of the Judge of the County Court of Mobile county, to bind out such children as they may receive in their care, when they shall become of sufficient age, in such manner as they shall deem most for the advantage of such children, and to make all stipulations for the benefit of their said wards.

May hold property.

Sec. 4. *And be it further enacted*, That the said corporation under the name and style aforesaid, shall be able and capable to purchase, and to take and hold, by purchase or otherwise, and to have, hold, possess and enjoy to itself in perpetuity, or for any term of years, any estate, real or personal of whatever kind or nature, and to sell, lease, alien or dispose of the same, as the association may think proper; and by its name aforesaid, may contract, sue and be sued, plead and be impleaded, answer and be answered unto, in any court of law or equity, and have all the rights and privileges incident to bodies corporate, instituted for similar purposes: *Provided*, That the property of the said Society shall not exceed twenty-five thousand dollars.

Proviso.

Misnomer.

Sec. 5. *And be it further enacted*, That no misnomer of the said association, in any act or doing, or proceeding in its favor or against it, shall be void on that account, where the intention is manifest; but the same in such cases shall be as efficient as if there were no misnomer.

Approved, Feb. 5, 1840.

[No. 36.]

## AN ACT

Declaring it a penal offence to obstruct Big Wills Creek and its tributaries, in DeKalb County.

Unlawful to obstruct, &amp;c.

Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter it shall be unlawful for any person to obstruct Big Wills creek in the county of DeKalb, or its tributaries, Millers creek and the creek running by Lynchburg, in said county, by falling trees in said creeks, or otherwise.

Penalty.

Sec. 2. *And be it further enacted*, That if any person who shall obstruct either of said creeks, by falling trees therein, or placing other obstructions, such person so offending, shall for every tree so fallen in said creek, or other obstructions placed therein, forfeit and pay the sum of five dollars, to be recovered before any court having competent jurisdiction thereof; one half to be paid into the county treasury, the other half to the person suing for the same.

Sec. 3. *And be it further enacted*, That if any person or persons so offending, will suffer the obstructions placed by them in the said

Wills creek and its tributaries, for a longer time than forty-eight hours, and for every forty-eight hours thereafter, shall forfeit and pay the further sum of five dollars, to be recovered in the same manner as specified in the second section in this act.

Fines, &c.

Approved, Feb. 1, 1840.

[No. 37.]

# AN ACT

To amend the law in relation to Garnishments.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That when a Garnishee, in any case of judicial or original attachment, shall answer, that previous to the time of such answer, he or she has received notice of the assignment or transfer of the debt or property, in respect to which the Garnishment is issued. it shall not be lawful for the court to render judgment against the said Garnishee, on the ground of the invalidity of the assignment or transfer of the debt or property; but the court, before which the Garnishment is pending, shall suspend proceedings against said Garnishee, until the question is litigated, as provided for in the following section of this act.

Court to suspend judgment.

Sec. 2. *And be it further enacted,* That on the coming in of the answer of the Garnishee, as provided for in the first section of this act, the court, (if the plaintiff shall desire it,) shall cause a notice to issue to the party to which the assignment or transfer is alleged to have been made, calling upon the said party to contest with the plaintiff, the validity of the said transfer or assignment, which notice shall be served at least five days before the matter shall be heard; and if the question shall be determined against the party claiming such debt or property so alleged to be transferred, then the court shall render judgment final against the Garnishee, reserving to said Garnishee his expenses as is now provided for by law; and also, reserving to the said Garnishee, and to all the parties contesting said question, the right of appeal or writ of error.

To issue notice.

Sec. 3. *And be it further enacted,* That if two notices shall issue to the party alleged to be the assignee or transferee of any such debt or property, and the same shall be returned not found, then the court before which said Garnishment is pending, shall proceed to render such judgment as is right in the matter, having due regard to the laws regulating assignments, and judicial and original attachments.

Court to render judgment.

Sec. 4. *And be it further enacted,* That this act shall not interfere with the powers of courts to render *nisi* and *final* judgments against Garnishments, for failure to answer a summons of Garnishment, as the law now provides.

Not to interfere with Courts, &c.

Sec. 5. *And be it further enacted,* That in case the transfer shall be found legal, the Garnishee shall be discharged, and costs shall be rendered against the plaintiff; and if the claim is found against the claimant, the costs shall be given against said claimant.

Transfer legal, &c.

Sec. 6. *And be it further enacted,* That when a Garnishee shall be brought before any court, on summons, in judicial or original at-

To file inter-  
rogatories.

tachments, it shall be lawful for the party, at whose instance the summons is issued, to file interrogatories, embracing the grounds now required to be answered by Garnishees in the laws regulating judicial and original attachments, which interrogatories shall be answered or demurred to by the Garnishee, and which answer or demurrer shall be determined as is now provided for by law; and it is provided herein, that nothing contained in this act shall prevent the court from receiving and requiring additional answers from a Garnishee, or requiring and receiving the said answers verbally in open court, on consent of all the parties concerned.

Nonresident.

Sec. 7. *And be it further enacted*, That in case the party who shall be alleged to be the assignee or transferee of the debt or property embraced in the Garnishee's answer, is a non-resident, then the court shall order publication for six months before proceeding to consider the question litigated between the parties.

Approved, Feb. 5th, 1840.

[No. 38.]

#### AN ACT

To authorize Commissioners to compel the attendance of Witnesses.

Commission-  
ers to exam-  
ine witnesses.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all Commissioners authorized to examine witnesses, shall hereafter have authority to issue subpoenas to compel their attendance, which shall be served by the Sheriff of the proper county; and if any witness so summoned shall fail to appear at the time and place appointed in the subpoena, the Commissioners shall certify that fact, together with the subpoena, to the court in which the cause is pending, wherein his testimony is sought to be used; and the said court shall thereupon proceed against the witness in the same manner as if the subpoena had issued from the office of the Clerk of that court.

Approved, Feb. 5, 1840.

[No. 39.]

#### AN ACT

To alter and amend the Attachment Law, so far as relates to the Bank of the State of Alabama and its several Branches.

Writs of At-  
tachm e t to  
be sued out.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in all cases where it may become necessary for the Bank of the State of Alabama or either of its Branches, to sue out an original attachment, it shall be lawful to sue out such attachment, upon the oath of the President, Cashier, or other officer or agent of such Bank, that he has reason to believe and does believe, that the person or persons against whom such attachment is prayed, absconds or secretes him or herself, or that he or she resides out of this State, or that he or she is about to remove out of this State, so that the ordinary process of law cannot be served upon him or them, or that he, she, or they are about to remove his, her, or their property out of this State.

When called  
on by endor-  
ser or securi-  
ty.

Sec. 2. *And be it further enacted*, That said Banks be, and they are hereby severally authorized to take out attachments according to the first section of this act, on the application of any endorser or se-

curity to the bill, note or other demand, and on satisfactory showing of such endorser or security, on oath or otherwise, that either of the grounds specified in this act exist.

Sec. 3. *And be it further enacted*, That said Bank and each of its Branches be, and they are hereby authorized to sue out original attachments without giving bond, as is now provided by law, in cases where individuals sue by attachments. Without giving bond.

Sec. 4. *And be it further enacted*, That in all cases where said Bank or its Branches, are now by law authorized to sue in the counties where they are located, attachments sued out by said Banks shall be made returnable in the counties where they are located respectively: *Provided*, That nothing in this act shall be so construed as to exempt said Bank or Branches from the suit of any person who may be damaged by wrongfully suing out such attachment. Returnable where Banks are located.  
Proviso.

Approved, Feb. 3, 1840.

[No. 40.]

### AN ACT

To prohibit the President and Directors of the State Bank and its several Branches, from allowing the Cashier, Clerks, and Tellers of said Banks, more than is now allowed by law.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall not be lawful for any of the above officers to receive for their salary more than is now fixed by law. Salaries not to be increased.

Sec. 2. *And be it further enacted*, That if any President or Director of the State Bank or any Branch thereof, shall vote or award a further sum than is now declared by law, such act shall be void, and said President or Director shall forfeit his seat. Seat forfeit'd.

Approved, Feb. 5, 1840.

[No. 41.]

### AN ACT

To incorporate the Town of Salem, in the County of Russell, in the State of Alabama.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the corporate limits of the town of Salem, in the county of Russell, shall extend a half mile each way, from the centre of said town, and be designated and known by the name of the town of Salem, and the inhabitants residing within the limits of said town, as hereby established, shall be, and they are hereby constituted a body corporate and politic; and who shall on the third Monday in July next, and on the third Monday in July in each and every year thereafter, elect by ballot an Intendant and five Councillors, resident land or house holders, who shall be designated and known by the name and style of the Intendant and Council of the town of Salem, and by their said corporate name and style, they and their successors in office may sue and be sued, plead and be impleaded, either at law or in equity, and may purchase, have, hold, receive, enjoy and retain in perpetuity or for a term of years, any estate, real or personal, not exceeding in value ten thousand dollars, and to sell, lease or otherwise dispose of the same for the benefit of the said town; also, may have Incorporation  
Name and style.  
Property, &c.

and keep a common seal, and the same to break, alter and amend at pleasure; and in general to do all acts which are or may be incident to bodies corporate.

Election,  
when held.

Sec. 2. *And be it further enacted*, That the first election for Intendant and Councillors, shall be conducted by Jonathan White, Doctor Erastus W. Jones, and Bryant S. Mangham, or any two of them, and all subsequent elections, shall be conducted by any three persons to be appointed by the Intendant and Councillors of the town of Salem, and said managers of elections, shall give at least ten days notice of the time and place of said election, by posting the same at any two public places in said town, the polls to be kept open from ten o'clock, A. M. and closed at one o'clock, P. M. at each election; and the Intendant and Councillors before entering on the duties of their office, shall take and subscribe the following oath, before the Judge of the County Court, or any Justice of the Peace for said county, viz: I do solemnly swear (or affirm as the case may be) that I will well and truly, and to the best of my knowledge and ability, execute and discharge the duties of Intendant (for Intendant,) Councillor (for Councillor) of the town of Salem, without fear, favor, or partiality. So help me God.

Oath of office.

Qualification  
of voters.

Sec. 3. *And be it further enacted*, That any elector of said town who is of the age of twenty-one years or upwards, shall be eligible either to the office of Intendant or Councillor, and should the said Intendant remove from the said town, or be absent therefrom for three months at any one time, without the consent of the Councillors, his office shall be vacated; and should any Councillor or Councillors, remove from the said town, or shall be absent therefrom for three months at any one time, without the consent of the Intendant and the other Councillors, his or their office shall be vacated; and it shall be the duty of the remaining part of the Board, forthwith to supply the vacancy or vacancies so occurring.

Vacancies  
how filled.

Sec. 4. *And be it further enacted*, That in the event of any vacancy occurring in the office of Intendant, either by death, resignation, or otherwise, the Councillors shall choose one of their body Intendant, *pro tempore*, who shall continue in office as Intendant, until the next succeeding annual election; and further, if any vacancy shall happen in the body of Councillors by death, resignation or otherwise, then and in that case, it shall be the duty of the Intendant to appoint Managers to hold an election to fill such vacancy or vacancies, who shall, after giving five days previous notice, proceed to open the polls for such election, and after the same, it shall be their duty to make known to the successful candidate his election.

Voters.

Sec. 5. *And be it further enacted*, That all white free male citizens of the age of twenty-one years and upwards, who shall have resided within the limits of said town three months, immediately preceding an election for Intendant and Councillors, or either of them, and all house-holders or free-holders therein, who shall have resided within the limits of said town one month previous to said election, shall be deemed qualified voters at said election for such Intendant and Councillors, or either them.

Sec. 6. *And be it further enacted*, That the Intendant and Councillors, or a majority of them, shall have power to adjourn their meetings from time to time: *Provided*, The Intendant may at any time call a meeting of the Councillors by written notice, designating the time and place of meeting, and on application of any two or more Councillors, the Intendant shall call a meeting in like manner; they shall keep a journal of all their proceedings, and record all their official acts and doings, and the yeas and nays on every question or subject, shall be taken and recorded at the request of any member of the Board, and all deliberations of said Intendant and Councillors, shall be public.

Proviso.

Sec. 7. *And be it further enacted*, That the Intendant of said town shall *ex-officio* be a Justice of the Peace, within the limits of the same.

Intendant *ex-officio* justice of the peace.

Sec. 8. *And be it further enacted*, That the said Intendant and Councillors shall have authority to enact such ordinances and by-laws as they may deem necessary for the good order and government of said town of Salem; to prevent and remove nuisances of every description, and which may extend to the preservation of health, to establish Night Watches, Patrols or Town Guards, to erect lamps, to regulate the paving or flagging, guttering and railing the side walks, to protect by adequate penalties, shade and ornamental trees in said town, to provide for licensing and regulating such retailers of liquors as they may believe the interest of said town shall require: *Provided*,

Government and powers.

Such person or persons as they may see fit to license, shall have first obtained a license from the County Court; to license, tax and restrain at pleasure, theatrical amusements, shows and museums of all kinds whatsoever, within said corporation; to clear and keep in repair the streets of said town, to restrain and prohibit all nightly and disorderly meetings of slaves, free negroes or mulattoes, and all other knavish and disorderly persons; to restrain all white persons and free persons of color, and slaves, from trading with slaves without a written order and permit from his, her or their owner or owners, agent or overseer; and in general, to pass such ordinances and by-laws, not contrary to the constitution of this State, and the laws thereof, as the said Intendant and Council shall from time to time deem expedient and necessary, to carry into effect the meaning and effect of this act, and the same to put in execution and to revoke and alter the same as shall be deemed expedient. The said Intendant and Council shall appoint a Clerk, a Treasurer, Assessor to collect, and Marshal, and such other subordinate officers as they may deem expedient and necessary, and require such security for the faithful discharge of their respective duties as may be deemed adequate; the said Intendant and Council are hereby also empowered to impose appropriate fines, penalties, and forfeitures for the breach of their ordinances and by-laws, not to exceed fifty dollars for every offence, recoverable with cost in the name of the Intendant and Council of the town of Salem, for the use of the town, before the Intendant thereof, for which suit may be commenced by warrant returnable forthwith: *Provided*, That all ordinances and by-laws shall be subject to repeal by

Proviso.

Taxes and restrictions.

Officers appointed.

Proviso.



the Legislature of this State, and that nothing herein contained shall be so construed as to prevent appeals to the Circuit and County Courts, in the same manner and under the same rules and regulations as appeals are taken from Justices of the Peace.

Taxes.

Proviso.

Sec. 9. *And be it further enacted*, That the said Intendant and Council shall have power to levy and collect a tax on real estate, not exceeding twenty-five cents on every hundred dollars worth, when the lots are improved with a house or houses and enclosurse, and not exceeding one dollar on every hundred dollars worth, when the lots are not improved with a house or houses and enclosures; and not exceeding fifty cents on every hundred dollars worth of stock in trade; and all other personal property kept within the corporate limits of the town of Salem: *Provided*, The tax on real and personal estate be laid in proportion to the value thereof, according to an assessment and valuation given by the owner or owners, his, her, or their agent, or by the Assessor appointed by the Intendant and Council, and should any person think his or her property assessed too high, he or she, shall have a right to complain to the Intendant and Council, who shall consider and reduce said assessment, if in their opinion, it has been placed too high by said Assessor, and their opinion shall be final.

Appointment  
of Overseers.

Sec. 10. *And be it further enacted*, That the Intendant and Council of the said town of Salem, shall appoint an overseer or overseers of the streets of said town, and shall require and regulate the working on the same, not exceeding ten days in each year, and may exempt at their discretion from working on the same, all persons they may think proper, and all persons living within the corporation, liable by law to work on roads and highways, by paying an additional poll tax not exceeding five dollars per head, on each one so liable to work for the use of said town, shall be exempt from working on the same.

Approved, Feb. 1, 1840.

[No. 42.]

### AN ACT

To amend an act entitled an act, to incorporate the Town of Talladega, in the County of Talladega, passed 9th day of January, 1835.

Power to levy  
and collect  
tax.

Proviso.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, the Intendant and town Council of the town of Talladega, in the county of Talladega, shall have power annually, to levy and collect a tax on all real estate situate in said town, not exceeding twelve and a half cents on each hundred dollars worth; and also a poll tax, not exceeding fifty cents on each white male inhabitant above the age of twenty-one years: *Provided*, He shall have resided within the corporate limits of said town two months preceding the time of levying said tax; and on each slave over ten and under fifty years of age, not exceeding fifty cents; on every free negro or mulatto who shall reside within said town, not exceeding twenty-five dollars.

Fines: Slaves.

Sec. 2. *And be it further enacted*, That each and every owner, or master of any slave or slaves within the limits of said corporation, who shall suffer or permit any such slave or slaves, to hire his, her, or their



own time, and to go at large, whether such owner or master live within such corporation or not, every such slave may be taxed in the sum of twenty-five dollars, to be levied upon said slave thus hiring his own time, and such slave may be sold for the same unless the owner or master pay the same.

Sec. 3. *And be it further enacted*, That the Intendant and Council so soon as qualified and organized, shall proceed to elect annually a town Marshal and Treasurer: *Provided*, He, the said Treasurer, shall not be one of their Board, and that the said Marshal and Treasurer shall each be required to give bond and security to the Intendant and his successors in office, in a penal sum, to be prescribed by the said Intendant and Council, conditioned for the faithful performance of their respective duties; that the duties of the said Marshal shall be confined within the limits of the said corporation, that he shall levy and collect all taxes assessed by the Board, and all fines assessed by the Intendant, and shall have all the powers of a Constable within the corporation, and shall take the oath prescribed by law for Constables, and that he shall have the power to act as auctioneer within the corporate limits, and that his fees shall be regulated by the Intendant and Council, and that the Intendant and Council shall have the power at any time, to remove from office the said Marshal and Treasurer, for any misconduct or neglect of the duties of their office.

Elections.

Proviso.

To give bond

Duties.

Fees.

Removal.

Sec. 4. *And be it further enacted*, That the said Intendant and Council shall have the power to assess, levy and collect from each and every person liable to work on the streets of said town, and for each and every slave liable to work on said streets, in lieu of labor now required by law on said streets, a tax not exceeding two dollars and fifty cents for each and every hand liable as aforesaid; which money shall be exclusively appropriated to the improvement of the streets of said town.

Street Tax.

Sec. 5. *And be it further enacted*, That it shall be the duty of the Intendant to preside at every trial for a breach of any law of said corporation, but in cases of his death, removal or absence, it shall be the duty of the Board to appoint some other person to preside in his place; that the said Intendant shall live within the limits of the corporation, all the powers now exercised by a Justice of the Peace, and shall be entitled to the usual fees allowed by law to Justices generally, and shall keep a regular record of the proceeding of the Board.

Intendant to preside.

Sec. 6. *And be it further enacted*, That so much of the seventh section of the act of incorporation, to which this is an amendment, as requires the election of Clerk and Treasurer, Assessor and Collector of taxes, by the citizens of said town be, and the same is hereby repealed.

Repeal.

Sec. 7. *And be it further enacted*, That the said Intendant and Council may cause an assessment of taxes to be made in each and every year by the Marshal, the assessment returning the persons liable to such taxes when known, and specifying the property when the owners are not known, which said assessment shall be returned to the Intendant and Council; and the Intendant and Council shall give at least ten days notice, that the assessment has been made, and the time when the Intendant and Council will proceed to hear and determine

Assessm't of taxes.

Sales.

upon the complaints which may be made against said assessment, and it shall be their duty to correct errors and supply omissions; and when the same has been passed upon by the Intendant and Council, said assessment shall have the power and effect of judgment and execution, and may be collected by a levy and sale of property, giving such notice as is required by law on executions from the Circuit Court; and all sales of property made under or by virtue of said assessment, shall convey to the purchaser, the same title, as if sold by execution from the Circuit Court, and the Marshal in cases of sales of real estate, give the purchaser a deed of conveyance, which shall vest in the purchaser the same interest that the person had, against whom the tax was assessed at the time of such assessment, and when the owner is not known, the entire and equitable interest in such estate, is discharged of all levys: *Provided*, That when a tax is assessed upon property, the owner of which is not known, ninety days notice of the sale, specifying the property and the taxes, shall be given in some newspaper printed in said town: *And provided*, That the owner of any real estate sold for taxes, shall have the right to redeem the same by paying treble the amount of taxes, together with costs and charges within twelve months from the day of sale.

Proviso.

Report.

Sec. 8. *And be it further enacted*, That it shall be the duty of the Intendant and Council, to make an annual report of all receipts and disbursements of all public monies, which report shall be made on the third Monday in January, in every year, and be published in some newspaper in the town of Talladega.

Exclusion.

Sec. 9. *And be it further enacted*, That so much of the plan of the town of Talladega, as may include the house and lot belonging to, and now in the occupancy of James A. Gwins, of said town, shall hereafter be excluded from the plan of said town, and from the operation of the laws and regulations governing the citizens of the town of Talladega.

Approved, Feb. 3, 1840.

[No. 43.]

## AN ACT

For the extension of Debts Due the Bank of the State of Alabama and its several Branches, the Issuance of Post Notes and other purposes.

Collection of debts.

20 per cent. and interest.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be lawful for the president and directors of the bank of the State of Alabama, and the presidents and directors of the branch banks at Mobile, Decatur, Huntsville and Montgomery, to adopt such measures in the collection of debts due or coming due said banks, and each of them, on the extended debt, seven per cent. loan, together with all notes or bills of exchange they have in suit, or in execution, or upon any other obligation, as to collect or call in a sum not exceeding twenty per cent. per annum, and interest, until the legislature shall otherwise direct, upon the amount now due or coming due, of any of said debts, extended debt, seven per cent. loan, notes or bills in suit or execution, or other obligation, which collections shall be so made to the extent of the said amount of twenty per cent. per annum and in-

terest, until the legislature shall otherwise direct, on the amount now due or coming due, as to conform to the safety of the said several banks, and to the ability of the debtors to discharge the same : *Provided*, That in all cases, the said debtors shall give ample security as is now provided for by law : *And provided further*, That if any debtor applying for the benefit of this act, shall fail to furnish the security required, he, she, or they, shall be considered as waiving the provisions of this act, and be proceeded against as is now required by law : *Provided further*, That this section shall not be so construed as to embrace bills of exchange running to maturity and predicated on the shipment of cotton, or upon business or transaction paper, except such business paper as has been substituted for the extended debt, or seven per. cent. loan : *Provided further*, That the bills of exchange purchased in the liquidation of the debt due the Mobile branch bank by the Decatur bank, shall not be embraced in this section : *Provided further*, That nothing contained in this act shall be so construed as to prevent the president and directors of any one of the banks from receiving more than twenty per cent. from any person indebted to their respective banks, when the person or persons so indebted, may desire to pay a larger amount on his or her indebtedness.

Sec. 2. *And be it further enacted*, That the non-specie paying banks of the State of Alabama, shall be allowed until the first day of July, one thousand eight hundred and forty-one, to resume specie payments, any law to the contrary notwithstanding.

Sec. 3. *And be it further enacted*, That the bank of the State of Alabama, and the branches of said bank at Montgomery and Huntsville, be and the same are hereby authorized to issue each, the sum of five hundred thousand dollars in post notes not having a longer time than twelve months to run, and the branches of said State bank at Mobile and Decatur are required to issue a like sum of five hundred thousand dollars, each in their own paper.

Sec. 4. *And be it further enacted*, That the board of control of the bank of the State of Alabama and the several branches thereof, be and the same is hereby abolished.

Sec. 5. *And be it further enacted*, That the Planters' and Merchants' Bank of Mobile, and the Bank of Mobile, each be, and they are hereby authorized, when they shall deem it advisable, to issue post notes from time to time, of any denomination not less than ten dollars, and in such sums as they may think proper : *Provided*, Such post notes shall, in no instance, be made payable at a longer period than twelve months after date : *And provided*, That such issue, of post notes shall, at no time, exceed the amount of five hundred thousand dollars, by each bank : *Provided*, That this particular amendment to the charter of the above banks, shall be under the control of the legislature, and may be repealed by the legislature without the consent of the stockholders.

Sec. 6. *And be it further enacted*, That all laws and parts of laws conflicting with the provisions of this act, are hereby declared to be repealed.

Approved, Feb. 3, 1840.

[No. 44]

## AN ACT

To amend an act relating to Inspectors, passed 17th December, 1819, as respects Bagging and Rope.

Duties of Inspectors.]

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the inspector appointed by the county court of the county of Mobile, under the provisions of the act to which this is an amendment, shall, in addition to the duties specified in said act, inspect each and every bolt of bagging and coil of rope, that may hereafter be brought into the port of Mobile for sale, by any ship, brigantine, schooner, sloop, boat, or other vessel, before the same is offered for sale.

Inspector to mark or brand.

Sec. 2. *And be it further enacted,* That if, on such inspection, it shall be found, that any bolt of bagging or coil of rope does not contain the number of yards or pounds, represented by the marks or brands on the same, it shall be the duty of said inspector to brand or mark such bolt of bagging, or coil of rope, with the real number of yards or pounds contained in the same, and he shall brand or mark every bolt of bagging and coil of rope, so inspected by him, with the word, *inspected*, and place his own name as inspector immediately before it.

Penalty for selling without inspection

Sec. 3. *And be it further enacted,* That if any person or persons shall sell, or attempt to sell, any bagging or rope, brought into the port of Mobile, as aforesaid, without first having the same inspected, agreeably to the provisions of this act, he, she, or they, shall forfeit and pay, for every such offence, the sum of five hundred dollars, to be recovered by action in any court having jurisdiction of the same, the one half thereof to the person suing and the other to the State.

Fees.

Sec. 4. *And be it further enacted,* That the said inspector shall be entitled to recover from the owner, twelve and a half cents for every bolt of bagging, and five cents for every coil of rope, so inspected by him as aforesaid.

Penalty.

Sec. 5. *And be it further enacted,* That if said inspector shall neglect or refuse to perform the duties required in this act, he shall be subject to all the penalties prescribed in the act to which this is an amendment.

Approved, Feb. 5, 1840.

[No. 45.]

## AN ACT

In relation to the Issuance of Executions.

Clerk failing to issue execution, &amp;c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That if the Clerk of any of the Courts of record of this State, shall fail or refuse, on application of the plaintiff or party interested, or his attorney or agent, to issue a proper writ of execution on a judgment rendered in the court of which he may be clerk, such clerk may be proceeded against on motion, and made liable to said plaintiff or party interested, in the same manner and for the same amount as sheriffs may now by law, be made liable in cases of failure by them, to make due return of executions: *Provided,* That if a writ

of execution shall have been duly issued on such judgment, within Proviso. twenty days after the rendition thereof, and the sheriff shall, in proper time, have returned thereon, that there was no property to be found in his county, out of which to satisfy such execution, then no clerk shall be made liable as hereinbefore provided, unless the party applying for execution, shall first pay or tender to such clerk, the costs that may be lawfully charged thereon.

Approved, Feb. 5, 1840.

[No. 46.]

#### AN ACT

To amend the Charter of the Town of Tuscaloosa.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That the legally qualified voters, recognized as such, in the charter now in force, of the town of Tuscaloosa, be, and they are hereby Election of Marshal. authorized to elect, annually, a marshal for said town, instead of the mode now pointed out in said charter.

Sec. 2. *And be it further enacted,* That the mayor and aldermen of said town of Tuscaloosa, shall, whenever a vacancy occurs in the Vacancies, how filled, office of marshal of said town, order an election for marshal by the legally qualified voters of said town; appointing proper persons to conduct the same, and giving at least ten days notice.

Approved, Feb. 5, 1840.

[No. 47.]

#### AN ACT

To reduce the Fees of Notaries Public.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That notaries public shall hereafter receive for protesting any bill, registering and seal, one dollar; and for registering a protest of a Fees reduced. bill of exchange, or note, for non payment, or non-acceptance, twenty-five cents and no more.

Approved, Feb. 5, 1840.

[No. 48.]

#### AN ACT

To Incorporate the Shelby Mining and Manufacturing Company.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Sharshal B. Grasty, George Grasty, Sen. and Dr. John H. Grasty, and such other persons as are, and may hereafter become associated with them, for the purpose of mining and manufacturing of Body corporate. iron, cotton, grain, &c. and should the company think proper to raise and manufacture silk, they shall be, and are hereby incorporated, made a body politic, by the name and style of the Shelby Mining Name and style. and Manufacturing Company, for the purpose of mining and manufacturing; and by that name they and their successors shall be persons in law, capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints, and causes whatsoever; and that they and their successors shall have a common seal, and make, change, and

May hold prop-  
erty.

alter the same at their pleasure, and also that they and their successors, by the same name and style, shall be in law, capable of purchasing, leasing, holding, and conveying any estate, real or personal, for the use of said company.

Capital stock,  
\$200,000.

May be in-  
creased.

Shares.

Sec. 2. *And be it further enacted*, That the capital stock of said corporation, may be at present, three hundred thousand dollars, and if at any time hereafter, the said company shall deem it necessary, or beneficial to their concern, the said capital may be increased to a sum not exceeding five hundred thousand dollars; that a share of the said capital stock shall be one hundred dollars; that the stock of said company shall be deemed and considered personal estate: in no case whatever, shall said company engage in any business, not strictly consistent with, and appropriate to the objects defined in the first section of this act.

Board of Di-  
rectors.

Sec. 3. *And be it further enacted*, That for the better carrying into execution the privileges granted by this act, there shall be a board of directors, not exceeding thirteen, and the said board shall elect from their number, a president and a majority of said board of directors present at any meeting, shall have power to transact business.

Number of  
shares to  
each vote.

Sec. 4. *And be it further enacted*, That in all elections of directors of the said company, each proprietor of four shares shall be entitled to one vote; each proprietor of eight shares shall be entitled to two votes, each proprietor of twelve shares shall be entitled to three votes, each proprietor of sixteen shares shall be entitled to four votes, each proprietor of twenty shares shall be entitled to five votes, each proprietor of thirty shares shall be entitled to six votes, each proprietor of forty shares shall be entitled to seven votes, each proprietor of fifty shares shall be entitled to eight votes, each proprietor of sixty shares shall be entitled to nine votes, each proprietor of seventy shares shall be entitled to ten votes, each proprietor of eighty shares shall be entitled to eleven votes, each proprietor of ninety shares shall be entitled to twelve votes, each proprietor of one hundred shares shall be entitled to thirteen votes, each proprietor of one hundred and twenty shares shall be entitled to fourteen votes, each proprietor of one hundred and forty shares shall be entitled to fifteen votes, each proprietor of one hundred and sixty shares shall be entitled to sixteen votes, each proprietor of one hundred and eighty shares shall be entitled to seventeen votes, each proprietor of two hundred shares or upwards shall be entitled to eighteen votes; and a majority of all the votes shall be necessary to a choice.

Majority ne-  
cessary to a  
choice.

Dividends.

Sec. 5. *And be it further enacted*, That it shall be the duty of the president and directors of the said company, on the first Monday in January and July, in each and every year, or oftener, to make a dividend of so much of the profits of the said company, as to them, or a majority of them shall appear advisable.

Sec. 6. *And be it further enacted*, That the said company and their successors shall have full power to make, constitute and establish, by and with the consent of a majority of the stockholders, in

accordance to the fourth section of this act, such by-laws, rules or ordinances and regulations, as they may, from time to time deem proper, for the election of directors, and the directors not exceeding thirteen, when they may judge necessary for the management of the affairs of the said company, their duration in office, and the time and manner of their election; and the directors shall have power to make, constitute, ordain and establish all other by-laws, rules, ordinances and regulations, for the transaction of the business of the said company, not repugnant to the constitution and laws of the United States, or of the State of Alabama: *Provided*, Nothing in this act shall be so construed as to authorize banking powers in any shape or manner whatever: *Provided, also*, That this act shall be in force for thirty years and no longer, and that the said company shall not be restricted to any particular county or counties in this State.

Approved, February 3d, 1840.

[No. 49.]

### AN ACT

To Abolish and Establish certain Election Precincts therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the election precinct at William Days, in Dallas county, be, and the same is hereby abolished, and that in lieu thereof an election precinct be, and hereby is, established at the house of George Thomas, in said county.

Election Precincts, abolished and established.

Sec. 2. *And be it further enacted*, That the election precincts heretofore established at the house of David McBrayers, and at the Town of Bootsville, in the county of De Kalb, be, and the same are hereby abolished, and in lieu thereof, that one be established at the storehouse of Allen Avery, in said county, and one at the house of Zachariah Thomason, on Wills' Creek, in said county.

Sec. 3. *And be it further enacted*, That the election precinct heretofore established at Urquharts, in Montgomery county, be abolished, and in lieu thereof, that one be established at Pinetuckey, in said county, and one at the house of Abner Mills, in said county.

Sec. 4. *And be it further enacted*, That the election precinct heretofore established at the house of Elisha Clampet, in the county of Blount, be abolished, and in lieu thereof, one be established at the house of David Alexander, in said county.

Sec. 5. *And be it further enacted*, That the election precincts heretofore established at McAnnulty Town and Brownsborough, in the county of Madison, be abolished, and in lieu thereof, one be established at Lowesville, in said county.

Sec. 6. *And be it further enacted*, That the election precinct heretofore established at Mesopotamia, in the county of Greene, be abolished, and in lieu thereof, one be established at Eutaw, in said county.

Sec. 7. *And be it further enacted*, That election precincts are hereby established at the following places, to wit:—one at the house of Captain Wildon, on Cedar creek, in Franklin county; one at the Mineral Spring of Chandler and Grantham, in the county of Talla-

dega ; and one at the house of James E. Allen, in the county of Pike.

lection Pre-  
acts.

Sec. 8. *And be it further enacted*, That the election precinct heretofore established at Dansboro', in the county of Sumpter, be and the same is abolished, and in lieu thereof, an election precinct is established at the house of Reason Wolley, in said county ; and that the election precinct heretofore established at the house of Benjamin Williams, in the county of Tuscaloosa, be, and the same is hereby abolished, and that in lieu thereof, one be established at the house of A. N. Thompson, in said county.

Sec. 9. *And be it further enacted*, That the election precinct heretofore established at the house of Spencer Smith, and the one heretofore established at the house of Naymun Shopshire, in Tallapoosa county, are hereby abolished, and in lieu thereof, one be established at the house of James Burney, and one at the house of Joseph Hackney, in said county.

Sec. 10. *And be it further enacted*, That the election precinct heretofore established at Coleman's, is hereby abolished ; and one established at the store of Jacob Watson, in the county of Chambers ; and that an election precinct heretofore established at the house of Amos French, in Sumter county, is hereby abolished.

Sec. 11. *And be it further enacted*, That the election precinct heretofore established at the house of John Overton, in the county of Baldwin, be, and the same is hereby discontinued.

Sec. 12. *And be it further enacted*, That the election precinct heretofore established at Horton's store, in the county of Barbour, be, and the same is hereby discontinued, and in lieu thereof, that one be established at the house of Samuel Feagan, in said county.

Sec. 13. *And be it further enacted*. That the election precinct heretofore established at the house of A. Chancellor, in the county of Coosa, be, and the same is hereby discontinued, and in lieu thereof, that one be established at the house of Thomas Jordan, in said county.

Sec. 14. *And be it further enacted*, That an election precinct is hereby established at Brewer's Old Gin, in the county of Covington, and one at the house of Thomas Lloyd, in said county.

Sec. 15. *And be it further enacted*, That the election precinct heretofore established at the house of Robert Broxton, in the county of Dale, be, and the same is hereby discontinued, and in lieu thereof, that one be established at the Town of Geneva, in said county.

Sec. 16. *And be it further enacted*, That the election precinct heretofore established at the house of Samuel McCullough, in the county of Fayette, be, and the same is hereby discontinued, and in lieu thereof, that one be established at the house of David Loftist, and one at the house of Fleming J. Thompson, in said county.

Sec. 17. *And be it further enacted*, That an election precinct is hereby established at the house of Andrew Gamble, in the county of Henry.

Sec. 18. *And be it further enacted*, That the election precinct heretofore established at the house of Robert Travis, in the county



of Jackson, be, and the same is hereby discontinued, and in lieu thereof, that one be established at the house of Archibald W. Collins, on Estil's Fork of Paint Rock, in said county. Election Precincts.

Sec. 19. *And be it further enacted*, That the election precinct heretofore established at the White House, in the county of Marshall, and the one heretofore established at the house of Richard Golden, and the one heretofore established at Big Spring, in said county, be, and the same are hereby discontinued, and in lieu thereof, that one be established at the Town of Marshall, and one at the house of William Young, in Big Spring Valley, in said county.

Sec. 20. *And be it further enacted*, That the election precinct heretofore established at the house of Wyatt Cheatham, in Walker county, and the one heretofore established at the house of John Ready, and the one heretofore established at Pigeon Roost, in said county, be, and the same are hereby discontinued, and in lieu thereof, that one be established at the house of John Mouldin, and one at the house of Robert Johnson, in said county.

Sec. 21. *And be it further enacted*, That the election precinct heretofore established at the house of Daniel Harrison, in the county of Wilcox, is hereby abolished, and that precincts are hereby established at the Poplar Spring, and at Barnes' Store, in said county.

Sec. 22. *And be it further enacted*, That the election precinct heretofore established at Hamptonville, in the county of Cherokee, be, and the same is hereby discontinued, and in lieu thereof, that one be established at Henslee's Store, in said county.

Sec. 23. *And be it further enacted*, That an election precinct is hereby established at the house of Benajah S. Killgore, in the county of Russell.

Sec. 24. *And be it further enacted*, That an election precinct is hereby established at the house of John R. Allen, and one at the house of George M. Duke, in the county of St. Clair.

Sec. 25. *And be it further enacted*, That the election precinct heretofore established at the house of William B. Walker, and the one heretofore established at the house of Sanson, and the one heretofore established at the Schoolhouse, near Sion Jordon's, in the county of Benton, be, and the same are hereby discontinued, and in lieu thereof, that one be established at the house of Philip Gee, on Captain Richa's muster ground, in said county.

Sec. 26. *And be it further enacted*, That the following election precincts are hereby established, in the county of Talladega, (viz :) one at the house of William Gamble ; one at the house of Garrett Johnson ; one at the house of Jesse Ford ; and one at the house of James Armstrong.

Sec. 27. *And be it further enacted*, That the election precinct heretofore established at the house of Dawson Grimes, in the county of Pike, be, and the same is hereby abolished.

Sec. 28. *And be it further enacted*, That the election precinct at North Wetumpka, in the county of Coosa, and the precinct at Camden, in the county of De Kalb, be, and the same are hereby discontinued.

Approved, Feb 3, 1840.

[No. 50.]

## AN ACT

To Incorporate the Town of Macon, in Clarke County.

Incorporation

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the town of Macon, in the county of Clarke, be, and the same is hereby incorporated.

Elections.

Sec. 2. *And be it further enacted,* That on the first Monday of March, in the year eighteen hundred and forty, and in each and every year thereafter, an election by ballot shall be held at the courthouse in said town, for an Intendant, four Councilmen, and a town Marshal, resident householders of said town, who shall serve for one year after they have been elected : the first election shall be conducted and managed by William F. Jones, James Savage, Terrill Powers, William Kennady, and Joseph P. Portis, or any two of them, and all subsequent elections shall be held by two of the Councillors, to be appointed by the Board for that purpose ; and the said Intendant and Councillors shall be, and they are hereby constituted a body corporate, by the name and style of the Intendant and Council of the town of Macon ; and by that name, they and their successors in office, shall be capable in law, of suing and being sued, pleading and being impleaded, in all manner of suits, either in law or in equity ; also to have and to keep a common seal, and the same to break, alter and amend at pleasure, and in general, to do all acts which are incident to bodies corporate ; and to purchase, hold, and dispose of, for the benefit of said town, real and personal estate, or mixed property, to the value of five thousand dollars.

Name and style.

General powers.

Sec. 3. *And be it further enacted,* That the said corporation shall have power to ordain, or pass all such ordinances and resolutions, and make all such regulations, as may, by them, be deemed necessary, for the good order and government of said corporation, which may extend to the preservation of health, to prevent and remove nuisances ; to license, tax, and restrain theatrical amusements, shows and museums of all kinds whatsoever, within said corporation ; to restrain and prohibit every species of gambling, drunkenness, profane swearing or other obscene or unlawful language, assaults and batteries, and all other breaches of the peace ; appoint night watches and patrols when necessary ; to clean and keep in repair the streets of the said town ; to remove and prohibit trespasses on the same ; to collect taxes on all property, both real and personal, including poll taxes within said corporation, for the purpose of defraying the expenses of the same ; to grant licenses to, and tax merchants and auctioneers ; to prevent the introduction of contagious or infectious diseases, within the town ; to restrain and prohibit all nightly or disorderly meetings, or assembly of slaves, free negroes, or mulattoes, and other knavish and disorderly persons ; to restrain and prevent all free persons from trading with negroes, without an order, written or verbal, from his or her owner, or agent, or overseer, and in general to pass such by-laws, not contrary to the constitution of this State and the laws thereof, as the corporation shall, from time to time, deem expedient and necessary, to carry into effect the meaning and intention of this act, and the same to put in execution ; to revoke and alter, as the said

Trading with Negroes.

corporation shall deem expedient: the said corporation shall have power to appoint a treasurer, assessor, collector and constable, and such other subordinate officers as they may think necessary, and by ordinance require such security from the several officers so appointed, to annex such fees to the several offices, as they shall deem necessary: they are hereby also empowered to levy such fine or fines, not exceeding ten dollars for any breach of their by-laws, as they may deem proper, and all fines by them imposed shall be sued for in the name of the corporation, before any justice of the peace, and the money so recovered, shall be paid to the treasurer, for the benefit of said town; and the town marshal, elected for said town, shall have all the powers and rights of a constable of said county, and receive, in all cases, the same fees as are allowed by law to constables, and shall give bond and security as constables are required to do.

Sec. 4. *And be it further enacted*, That whenever vacancies shall happen in the Board of Councillors, by death, resignation or otherwise, such vacancies shall be filled by the board, and the member or members so added, shall continue in office until the succeeding annual election.

Sec. 5. *And be it further enacted*, That should the elections not take place on the day fixed for the annual election of councillors, the board shall not, for that cause be dissolved, but the incumbents shall remain in office until their successors are elected; and it shall be the duty of the board to fix some other day, as early as convenient, within one month thereafter, on which day two of the councillors shall attend and hold an election for councillors.

Sec. 6. *And be it further enacted* That said Intendant and Council shall appoint a clerk, whose duty it shall be to keep a fair record of their proceedings, and publish the same, and all laws and ordinances, in some public newspaper, or at three several public places in said town.

Sec. 7. *And be it further enacted*, That said Intendant and Councillors first appointed, and their successors in office, shall severally, before they enter upon the duties thereof, take an oath before some person qualified to administer the same, that they will faithfully discharge the duties to them committed, without favor, affection, or partiality; a certificate of which oath shall be filed with the clerk of the Board of Councillors.

Sec. 8. *And be it further enacted*, That all white male inhabitants, above the age of twenty-one years, who shall have resided within the limits of said town six months, immediately preceding an election for councillors, and all land holders or freeholders therein shall be deemed qualified electors at such election.

Sec. 9. *And be it further enacted*, That each and every person who may be elected a councillor for said town, shall, *ex officio* be a justice of the peace, within the limits of the same, for the purpose of executing and carrying into effect, the by-laws and ordinances of said corporation.

Sec. 10. *And be it further enacted*, That all persons residing within the limits of said incorporation, shall be exempt from working on roads without said corporation.

Powers and  
privileges.

Sec. 11. *And be it further enacted*, That the Intendant of the town of Macon, shall be, and he is hereby authorized and empowered to exercise all the jurisdiction, duties and powers, which appertain to, and are exercised by justices of the peace in Clarke county, and shall be subject to the same penalties and liabilities.

Voters.

Sec. 12. *And be it further enacted*, That all persons legally qualified to vote for a representative to the State Legislature, residing within one mile of the courthouse of said county, shall be entitled to vote for said Intendant and Councilmen, and town Marshal, at the first election, to be held under this act; and the said Intendant and Councilmen shall define the limits of said town hereby incorporated, and report the same to the clerk of the county court of said county, who shall record the same; and the record so made, and the boundaries so defined, shall be as valid as if embodied in this act, and at all elections thereafter, the legal voters, residing within said corporation, shall be alone entitled to vote for the said Intendant, Councilmen, and town Marshal.

Approved, Feb. 4, 1840.

[No. 51.]

#### AN ACT

To alter and amend the Militia Laws of this State.

Officers, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, no officer of the Militia of this State, under the rank of Major, shall be subject to fine for not appearing in uniform: *Provided*, that they shall wear a sword and belt, a plume and cockade and an epaulette, distinctive of their rank; and no officer shall be subject to fine for not wearing a sash.

Proviso.

Battalion  
courts martial.

Sec. 2. *And be it further enacted*, That hereafter Battalion Courts Martial shall be holden for the trial of defaulters at Battalion Musters, which Courts Martial shall be ordered by the Commanding Officers of Battalions, and held within twenty days after the respective Battalion musters, and shall consist of not less than seven commissioned officers.

10 days notice.

Sec. 3. *And be it further enacted*, That hereafter ten day's notice (by advertisement at three or more public places) through the Orderly Sergeant or any commissioned officer of a company, of any Company, Battalion or Regimental muster, drill, or Court Martial, shall be deemed a sufficient notice of such muster, drill, or Court Martial; any law to the contrary notwithstanding.

Cavalry, &c.

Sec. 4. *And be it further enacted*, That one troop of Cavalry may be organized, under the rules prescribed by law, in each county in this state, which may choose their uniform, and shall be required to hold four company musters annually; and also parade at one Regimental muster in said county, under the orders of the commanding officer of the Regiment; and no other militia duties shall be required of such companies: *Provided*, where there are more Regiments than one in any county, such troops may be raised from the different Regiments, and in such case, application shall be made to the Brigadier General of the Brigade, for writs of election.

Proviso.

Sec. 5. *And be it further enacted*, That Judges of the Supreme,

Chancery, Circuit, and County Courts, and the Clerks of all such Courts, shall hereafter be exempt from militia duty except in cases of imminent danger, insurrection or invasion. Exempts.

Sec. 6. *And be it further enacted*, That hereafter, the day previous to Battalion and Regimental parades, the commissioned and non-commissioned officers shall assemble for parade and drill, conducted in the same manner as was the law previous to the adoption of the late Military Code for the government of the militia of the State of Alabama. Parade and drill.

Sec. 7. *And be it further enacted*. That from and after the passage of this act, it shall be lawful for any member of a volunteer company in this State to perform militia duty at any place, within the Brigade in which he resides: *Provided*, said duty be done in said volunteer company, and as a member of the same; any law, usage or custom to the contrary notwithstanding. Volunteers.

Approved, Feb. 3, 1840.

[No. 52]

### AN ACT

For the benefit of the Settlers on Public Lands within the limits of the State of Alabama.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That whenever any person, who is a settler on the lands of the Government of the United States, lying within this State, and who is entitled to the right of pre-emption to any such lands, under the act of Congress granting pre-emption rights to the actual settlers on the public lands, approved, the twenty-second day of June, one thousand eight hundred and thirty-eight, shall produce to the President and Directors of the Bank of the State of Alabama, or any of its Branches, a certificate of the Register of the proper Land Office, or any other satisfactory proof, certifying that such person or persons had made the proper proof and were entitled to enter in said Land Office, any quantity of said land under the provisions of the aforesaid act of Congress; and also present a note endorsed by at least two punctual and solvent persons, to be approved of by the President and Directors of said Bank or its Branches, due in two equal annual instalments, it shall be the duty of the President and Directors of said Bank or Branches, to cause such person's notes to be discounted for a sum equal to the purchase money of such quantity of land as the person applying for the same was entitled to enter, in no case extending beyond two hundred dollars: *Provided*, That the Bank of the State of Alabama, or any of its Branches, when applied to in obedience to the first section of this act, shall, at the time of such application, be in a condition to grant such discounts: *And Provided further*, That the President and Directors of the Bank of the State, or any of the Branches, where any discounts, under the provisions of this act, have been granted, shall have power and authority to require at any time, after said discounts shall have been granted, additional security for the sum or sums so discounted, and upon a failure of the parties to said note, to give unquestionable security for the faithful discharge of said note when due, it shall be lawful for said President and Di- Allowed a discount.

Proviso.

rectors to proceed and collect the same, as though the same had become due: *Provided further*, That in no instance shall the securities be at liberty to purchase or own, directly or indirectly, the land, or any part thereof, at any time during the first five years to come.

Oath.

Sec. 2. *And be it further enacted*, That the provisions of this act shall not be extended to any person, unless he or she shall take and subscribe the following oath, before some competent person or tribunal, authorized to administer the same: I ——— do solemnly swear that the sum now sought to be borrowed from the Bank, if obtained, shall be applied by me for the purchase of the lands to which I am entitled, under the late act of Congress, granting pre-emption to settlers on public lands, and that I am unable to obtain said sum of money, without obtaining a loan, or by sacrifice of property.

Penalties.

Sec. 3. *And be it further enacted*, That if any person shall swear falsely for the purpose of obtaining a loan, of any sum of money, under this act, and be thereof convicted, he shall suffer all the pains and penalties of perjury.

Approved, Feb. 3, 1840.

[No. 53.]

## AN ACT

To Increase the Revenue Fund.

\$40,000 appropriated.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sum of forty thousand dollars be, and the same is hereby appropriated from the profits of the Bank of the State of Alabama, and its several Branches, to enable the Treasury to meet the demands against it, during the ensuing year.

Deposited in State Bank.

Sec. 2. *And be it further enacted*, That the said forty thousand dollars shall be paid by the said State Bank and its Branches, in sums proportioned to their respective capitals, and deposited to the credit of the Treasurer of the State, in the Bank of the State of Alabama, by the first day of March next, to be drawn from said Bank under the same rules and regulations now applying to the Revenue Fund.

Approved, Feb. 3, 1840.

[No. 54.]

## AN ACT

In relation to Sixteenth Sections.

Adjoining townships.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be lawful for any person to send to school in an adjoining township, where it is more convenient; and such person or persons sending their children or wards to school out of the township in which they may reside, may nevertheless draw their rateable proportion of the funds of the township in which they live; such persons are however required to furnish the certificate of the teacher to whom they send, to the commissioners of their own township: *Provided*, The provisions of this act shall not apply to the counties of Talladega, Tuscaloosa, Autauga, Bibb, De Kalb, Cherokee, Barbour, and Henry.

Sec. 2. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 3, 1840.

[No. 55.]

## AN ACT

To Incorporate the Town of Fredonia, in Chambers County, Alabama.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That for one half mile in every direction from the Post Office, be, and the same is hereby incorporated, under the corporate name of the town of Fredonia. Incorporation

Sec. 2. *And be it further enacted,* That on the first Monday in March next, John A. Hurst, Judge Trammel, and Parom Thornton, who are hereby appointed commissioners for the organization of said town, shall hold an election for five town Commissioners. Commissioners appoint'd.

Sec. 3. *And be it further enacted,* That any free white man, who resides in the limits of said town, over twenty one years of age, shall be entitled to vote in said election, for Town Commissioners; and that the five Commissioners so elected, shall hold their office for twelve months, and elect from their own body an Intendant, whose duty it shall be to preside over all meetings of said Board. Qualification of voters.

Sec. 4. *And be it further enacted,* That said Commissioners shall have power to fill all vacancies, to elect a Secretary for the recording of all the proceedings of their meetings; and to pass all laws and ordinances for the better regulation of said town; not repugnant to the laws and constitutions of this State, or of the United States. Vacancies.

Sec. 5. *And be it further enacted,* That at the same time and place, and in the same manner of electing the Commissioners, there shall be elected a Justice of the Peace, and a Constable, for said town, whose duties and powers shall be the same within the limits of the incorporation aforesaid, as are required of, and assigned to Justices of the Peace and Constables, by the laws of this State, in their respective beats. Justice of the peace elected

Sec. 6. *And be it further enacted,* That all hands, who may reside within the limits of said corporation, shall be exempt from working on any public road out of the limits of said corporation. Exempt from working on roads.

Sec. 7. *And be it further enacted,* That the Commissioners aforesaid, shall have power, and are hereby required, to cause all persons residing in the limits of said incorporation, and who are liable to work on any public road, to work on the streets and roads of said incorporation, as often as they may think necessary: *Provided,* That the said residents of said town, shall not be required to do more labor than by the laws of this State, they might be required to perform on the public roads. Streets. Proviso.

Sec. 8. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed. Repeal.

Approved, Feb. 4, 1840.

[No. 56.]

## AN ACT

To authorize the Election of an Assessor and Tax Collector for Wilcox County, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the Sheriffs of Wilcox and Shelby counties, to advertise, and cause to be elected, by the qualified electors of



Election for  
Assessor, &c.

said counties, at each annual election hereafter to be holden for said counties of Wilcox and Shelby, an Assessor and Tax Collector, whose duty it shall be, after giving bond with approved security, to the Judge of the County Courts of said counties, in such sum as the Judge may require, not exceeding double the amount of the taxes to be raised in any one year, conditioned for the faithful discharge of their duties, and being duly qualified, to assess and collect the taxes for the counties aforesaid, in the same manner, and for the same compensation now pointed out and allowed by law, to the Sheriffs, for such services.

Repeal.

Sec. 2. *And be it further enacted*, That all laws authorizing or requiring the Sheriffs of said counties of Wilcox and Shelby, to assess and collect any taxes that may fall due after the first day of January, 1841, be, and the same are hereby repealed.

Approved, Feb. 4, 1840.

[No. 57.]

#### AN ACT

To authorize John C. Whitsett and others to erect a Toll Bridge across the Noxubee river, in Sumter County.

Authorized to  
erect bridge.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John C. Whitsett and his associates and successors, be authorized to erect and maintain a Bridge over and across the river Noxubee, in Sumter county, at Whitsett's Ferry, so called, or between the present site of said ferry and the mouth of said river; and to take such tolls as have been appointed and taken at said ferry; and the said Whitsett and his associates and successors, the stock-holders in said Bridge, are made a corporation for the purposes aforesaid, and none others, by the name and style of the Noxubee Bridge Company; and may as such corporation, do all things needful for the erection and maintenance of said Bridge, and the collection of tolls; and by said corporate name, may sue and be sued; and in that name, may purchase, receive, and enjoy so much land as shall be needful for the erection and site of said Bridge.

Name and  
style.

Approved, Feb. 4, 1840.

[No. 58.]

#### AN ACT

To change the manner of bringing suits on Bills of Exchange and negotiable paper.

The Attorney  
to include all  
the names.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That whenever suit shall be commenced by the Bank of the State of Alabama, or any of the Branches thereof, on any bill of exchange or promisory note, it shall be the duty of the attorney to include in the writ or notice, the names of all the parties, liable on the bill or note, and when the parties to any bill or note reside in more counties than one, duplicate writs, or notices may be issued, to the counties in which they reside.

Defence, &c.

Proviso.

Sec. 2. *And be it further enacted*, That if no defence is interposed to such suit, it shall be the duty of the court, to render one judgment against all the parties, who are legally before the court, and as against whom a recovery may be had: *Provided however*, That



if the acceptor of a bill of exchange is served with process, a several judgment shall be rendered against him, in all cases, where he is liable for a different sum, than the other parties to the bill.

Sec. 3. *And be it further enacted*, That if any defence is made to such suit, and the plaintiff, or either of the several parties to the bill or note, shall demand a severance, it shall be the duty of the court to award the same, and the suit shall proceed to judgment as if the parties had been severally sued. Severance.

Sec. 4. *And be it further enacted*, That if several suits shall be commenced contrary to the provisions of this act, it shall be the duty of the court to consolidate the same, on the motion of the defendants, and to compel the attorney issuing the writ or notice, to pay the costs occasioned thereby, by process of attachment for contempt: *Provided*, That nothing herein contained shall preclude the plaintiff from discontinuing the suit against one or more of the defendants, in cases now allowed by law, or from issuing other process against such parties as shall not be prosecuted to judgment. Court to consolidate.

Sec. 5. *And be it further enacted*, That hereafter Bank attorneys shall not be entitled to tax fees except in litigated cases. Tax fee.

Sec. 6. *And be it further enacted*, That all laws and parts of laws contrary to the provisions of this act be and the same are hereby repealed. Repeal.

Approved, Feb. 3, 1840.

[No. 59.]

#### AN ACT

More effectually to prevent disorderly conduct at places of religious worship.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That if any person or persons shall wilfully interrupt or disturb any assembly of people, met for religious worship, either by making a noise or by profane discourse, or by rude or indecent behaviour, at or so near the place of worship as to disturb the order and solemnity of such meeting, such person or persons so offending, shall be subject to indictment, and on conviction may be fined, at the discretion of the jury, not less than five dollars, nor more than fifty dollars. Fine.

Sec. 2. *And be it further enacted*, That the person or persons offending as aforesaid, may be prosecuted either under this act, or the act entitled "an act to prevent immoral and disorderly conduct at places of religious worship," approved 10th December, 1822, at the option of the informer. Prosecution.

Approved, Feb. 3, 1840.

[No. 60.]

#### AN ACT

To add all that part of Dallas County which lies west of a line therein named, to Marengo County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all of that part of Dallas county which lies west of the line hereinafter mentioned, to wit: a line commencing on Perry county line, between sections three and four, of township fifteen, of range six east, and thence running along said line south, to Wilcox county line; be added to the county of Marengo and become a part thereof. Part of Dallas added to Marengo.

Approved, Feb. 4th, 1840.

[No. 61.]

## AN ACT

To be entitled an act as to Endorsers and Acceptors.

Members of  
the Legisla-  
ture prohib-  
ed, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly Convened*, That hereafter it shall not be lawful for any member of the General Assembly of this State to become endorser or acceptor on any bill negotiable at the Bank of the State of Alabama or any of the Branch Banks thereof, unless on his own paper and for his own benefit.

Security and  
endorser.

Sec. 2. *And be it further enacted*, That no member of the General Assembly shall hereafter be security or endorser on, except as prescribed in the first section, any note discounted by the said State Bank or any of the Branches thereof, any law or usage to the contrary notwithstanding.

Approved, Feb. 3, 1840.

[No. 62.]

## AN ACT

To enlarge the powers and authority of the Corporation of the Town of Tuscumbia.

Powers en-  
larged.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the President and Trustees of the town of Tuscumbia, shall be authorized and fully empowered to condemn private property within the limits of said town, so far as it may be necessary to use the same for the purpose of draining any pond, sink, or pool of standing water, within the limits of said corporation.

Ditches.

Sec. 2. *And be it further enacted*, That whenever the said President and Trustees, shall deem it expedient to drain any pond, sink or pool, of standing or stagnant water, within the limits of said town; and if for the purpose of draining the same, it shall, in the opinion of said board of Trustees, be for the benefit of said town, to excavate or ditch through the lot or lots of individual owners of property; and in case the said Trustees, and the owner or owners of said property cannot agree, as to the damage consequent upon such excavation or ditching, the said President, in behalf of said corporation, shall, and may issue a summons, in the nature of a writ of *ad quod damnum*, commanding the constable of said town to summon a jury of seven good and lawful men, freeholders of said town, to assemble on the premises, at a time mentioned in said summons, not less than six days from the date thereof, and in case any of the individuals, so summoned as jurors, shall fail to appear at the time appointed in the summons, the constable shall fill their places, by summoning others to appear forthwith, which jury, when summoned, shall be sworn by the constable to assess the damages, which the owner or owners of the property would sustain, by reason of excavating or ditching through his or their lot or premises; and the jury, thus assembled and sworn, shall take into consideration as well the advantages as disadvantages, which would accrue to the owners, by reason of such excavation, or ditching, and the draining of the stagnant water, *Provided*, That the owners of said lot, proposed to be excavated or ditched, shall have six day notice of the time and place of assembling said jury, if he be a citizen

Jury to be  
summoned.

Proviso.

resident in this State; and if the owners shall be a non-resident, or if the place of his residence be unknown, then notice shall be given for two successive weeks in some newspaper, published in said town, which notice shall be binding upon the parties: *And Provided further*, Proviso. in all cases where the owner is a non-resident, a notice to the tenant in possession, if there be one, shall be sufficient: and the jury shall return their verdict to the President of said corporation, who shall cause the same to be recorded, in the books of the corporation, and upon the payment of the damages, if any shall be assessed, to the owner of said lot, or to his agent, if the owner or agent be known, or to the guardian, if the owner be a minor, or *non compus mentus*, or to the administrator of the deceased owner, if there be minors and no guardian; the President and Trustees, their servants or agents may enter upon the premises thus condemned, and proceed with the work of excavation or ditching: *Provided*, that either party shall have a right to appeal to any court of record, for the county of Franklin; Proviso. and in case the owners of the property shall appeal, he shall give bond and security for cost, and he shall pay the cost, unless the damages shall be increased by the verdict of the jury of the court to which he appeals; and in case the corporation appeals, they shall enter into bond and security for the payment of the damages assessed by the jury and cost, and shall in like manner pay cost, unless the damages are diminished; but in either case, an appeal shall not prevent the said President and Trustees from progressing with their work.

Sec. 3. *And be it further enacted*, That for the purpose of raising funds for the improvement of the town of Tuscumbia, the President and Trustees of said town shall have power to borrow money, To borrow money. and to pledge the faith, and credit, and revenue of said town, for the payment of the interest and principal of the sum thus borrowed; and for that purpose said President shall have power to execute bonds Bonds. and obligations in such form and with such conditions, as he may deem expedient: and said President and Trustees shall have power and authority to raise by taxation, upon the real and personal estate, located in said town, moneys sufficient to pay the interest and principal of all sums thus borrowed, as the same may become due and payable.

Sec. 4. *And be it further enacted*, That the said President of the town of Tuscumbia, for the time being, shall have power and authority, Stock. &c. in behalf of said corporation, to subscribe for stock in any manufacturing establishment, to be located in or near said town, and the said President, for and in behalf of said corporation, shall be authorized and empowered to subscribe for stock, in any company created or chartered by the State of Alabama, for the purpose of internal improvements; and for the purpose of raising funds to pay for any stock subscribed for, as contemplated in this section, said President and Trustees shall have power, and authority to execute bonds in the manner described, in the third section of this act, and to raise by tax-

ation, as therein prescribed, the money to pay the principal and interest of said bonds, as the same shall become due and payable.

Repeal.

Sec. 5. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 4th, 1840.

[No. 63.]

#### AN ACT

To be entitled an act to amend an act, entitled an act to incorporate the Town of Warsaw, in Sumter County, approved February, 1839.

Qualification  
of voters.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all free white persons, who have been a resident citizen of the town of Warsaw three months, preceding the day on which any election for officers of said town may take place, shall be entitled to vote in said election.

Election.

Sec. 2. *And be it further enacted*, That the election in future shall be held on the last Saturday before the first Monday in April, in each and every year, and be conducted as named in the act of incorporation, any law to the contrary notwithstanding.

Approved, Feb. 4th, 1840.

[No. 64.]

#### AN ACT

To repeal an act therein named.

Repeal, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an act, approved, February the 2d, 1839, bringing horse-mills under the same rules and regulations, and provisions, that water-mills are under, be, and the same is hereby repealed, so far as relates to the county of Jackson.

Approved, Feb. 4th, 1840.

[No. 65.]

#### AN ACT

To be entitled an act, to revive an act passed December 3, 1821, incorporating the Town of Sparta, and for other purposes.

Revived.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, an act entitled "an act to incorporate the town of Sparta, and for other purposes," passed December, 3d, 1821, be, and the same is hereby revived, with the following amend ments.

Change made

Sec. 2. *And be it further enacted*, That so much of the above recited act, as mentions and refers to the south west quarter of section thirty-one, of township five, in range eleven, within the county of Conecuh, be, and the same is hereby taken and made to apply and refer to the south east, instead of the south west quarter of the township and range aforesaid.

Extension.

Sec. 3. *And be it further enacted*, That said incorporation shall extend two hundred yards in every direction, measuring from the court house, and no further; and shall not include the whole of the quarter section above described.

Sec. 4. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed. Repeal.  
 Approved, Feb. 4, 1840.

[No. 66.]

## AN ACT

To raise a School Fund to aid the valueless Sixteenth Sections in this State.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sum of two hundred thousand dollars, be paid annually by the Bank of the State of Alabama and its several Branches, in proportion to their capital stock; and they are hereby authorized and required, to set apart the above amount, for the purpose of aiding in the establishment of schools in the several townships in this State. \$200,000 set apart.

Sec. 2. *And be it further enacted*, That there shall be, as is now required, and in the same manner now prescribed by law, Commissioners and Trustees elected in all the townships in this State, claiming the provisions of this act. Commissioners and Trustees elected.

Sec. 3. *And be it further enacted*, That if it has been or may hereafter be deemed advisable to divide the township into two or more school districts, the sum hereby appropriated, may be divided in equal proportions, or in proportions hereinafter specified. Division.

Sec. 4. *And be it further enacted*, That the State Bank or either of its Branches, on the presentation of a certificate from the Commissioners of any township in this State, setting forth the number of scholars actually sent to school in such township, and the length of time each one has been sent, and a certificate showing the annual value of the sixteenth section thereof; or if it is of no value to the citizens of the township, to have it so represented, and that application has not been made for the proportion to which said township may be entitled under the provisions of this act, to any other Bank, is hereby required to pay annually to the order of the Commissioners, the sum of twelve dollars, for each scholar, per annum, sent to school and certified to as aforesaid; or at the rate of twelve dollars, per annum, when it shall appear from said certificate that any scholar has been sent to school a shorter time than one year: *Provided*, That the whole amount of money paid to any one township shall not exceed the sum of four hundred dollars, including the profits of the sixteenth section of such township arising from rents, interest, &c. Amount to be paid 16th sections.

Sec. 5. *And be it further enacted*, That no township shall be entitled to the provisions of this act, until satisfactory evidence has been given to the Bank where application is made, that an amount equal to one third of the amount applied for, has been subscribed, in good faith, by the citizens of the township making such application; and it shall be the duty of the Commissioners of said township, to say what scholars shall be educated free from charge. Evidence to be given, &c.

Sec. 6. *And be it further enacted*, That it shall be the duty of the said Commissioners to make application for their proportionate amount, during the first week of each and every year, or as soon there- Commissioners to make application.

after as convenient, and must then make it appear to the bank or branch bank, to which application may be made, that the sum applied for is required to pay for tuition in the township, during the year preceding the application.

Clerks certi- Sec. 7. *And be it further enacted*, That it shall be the duty of the ficates. Commissioners, or the holder or bearer of such certificates from the Commissioners of any township in this State, to produce the certificate of the judge or clerk of the court of the county in which said Commissioners reside, to the fact that they the Commissioners, are duly authorized to act for said township.

To be divided or Sec. 8. *And be it further enacted*, That when there may be two or more schools in the same township, the sum hereby appropriated to said township, shall be divided among them in proportion to the number of scholars actually sent to each school.

Report. &c. Sec. 9. *And be it further enacted*, That it shall be the duty of the President and Cashier of the State Bank and its Branches, to furnish the Legislature annually, the amount of money, by each of them paid out, under the provisions of the above recited act.

Surplus reve- Sec. 10. *And be it further enacted*, That the annual interest of nue. the surplus revenue deposited with this State, shall be set apart to assist in the payment of the appropriation made in this act.

Fractional Sec. 11. *And be it further enacted*, That fractional townships in townships. this State, shall be entitled to all the provisions of this act, and shall be authorized to elect Commissioners, as is now provided by law.

Repeal. Sec. 12. *And be it further enacted*, That all laws and parts of laws contravening or coming within the purview of this act, be, and the same are hereby repealed; and all laws heretofore passed, appropriating money in aid of sixteenth sections, shall be and the same are hereby repealed: and no other money shall be appropriated to them, except under the provisions of this act. Approved, Feb. 3, 1840.

[No. 67.]

#### AN ACT

To be entitled an act, to alter and amend an act, incorporating the City of Wetumpka, and establishing a City Court therein, passed the 30th January, 1839.

Name and Sec. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That said corporation shall be known and called by the name and style of Mayor and Aldermen of the City of Wetumpka.

Wards. Sec. 2. *And be it further enacted*, That the portion of said city known as the first, second and third wards in said city, lying west of Coosa river, shall embrace all that tract or parcel of land heretofore known as West Wetumpka, and including the graveyard on the northern line of West Wetumpka as originally laid out.

Mayor and Sec. 3. *And be it further enacted*, That from and after the passage of this act, the office of Mayor and Judge of the city court shall be distinct and separate; and at the election for Aldermen in each year, the legal voters of said city shall elect some suitable person in said city for Mayor, who shall do and perform all and singular the acts prescribed in the act to which this is amendatory.

Sec. 4. *And be it further enacted*, That in all cases when the judge of the city court shall be interested as counsel or otherwise, returnable to said city court, that the judge of the county court, either of Coosa or Autauga county, shall be compelled to preside in said city court, in said cases. Judge not to  
preside when  
interested.

Sec. 5. *And be it further enacted*, That the Mayor and Aldermen of said city shall be exempt from serving on juries, in said city courts. Exempt from  
serving on  
juries.

Sec. 6. *And be it further enacted*, That the costs in such cases returnable to said city courts, shall be the same as taxed in the respective county courts in this State; and instead of taxing two dollars for county purposes, the same shall be added to the sum allowed county judges, so as to make four dollars the tax fee of the judge of said court; which shall be his compensation for presiding in said court. Costs, &c.

Sec. 7. *And be it further enacted*, That the jurors serving in said city court shall be allowed the same compensation as jurors serving in the circuit and county courts, and shall be paid out of the funds of said city; and the certificate of the clerk for said services shall be received for city dues. Jurors.

Sec. 8. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are here by repealed. Repeal.

Approved, Feb. 5, 1840.

[No. 68.]

### AN ACT

To incorporate the Farmville Male and Female Academy.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an Academy be, and the same is hereby incorporated, in the county of Macon, to be styled the Farmville Male and Female Academy; and that Joseph R. Bedell, Micajah Bedell, James Jones, Reuben Phillips, Henry Smith, and Thomas J. Bedell, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Farmville Male and Female Academy; and as such, shall be capable and liable in law or in equity, to sue and be sued, plead and be impleaded; and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy: *Provided*, such by-laws are not repugnant to the laws and constitution of this State and of the United States; and for that purpose may have and use a common seal, and appoint such officers as they may think proper, and remove the same for improper conduct or neglect of duty. Body corpo-  
rate.  
  
Name and  
style.  
  
Provido.

Sec. 2. *And be it further enacted*, That said Trustees, or body corporate, shall be privileged to accept of, and be invested with, all manner of property, either real, personal, or mixed, also all donations, gifts, grants, privileges and immunities, whatsoever, which may be hereafter made or granted to said institution, or which may be hereafter conveyed or transferred to them, or their successors in office, to have and to hold the same for the use, benefit, and behoof of said May hold pro-  
perty.

**Proviso.** Academy: *Provided*, the same shall not exceed twenty thousand dollars.

**Vacancies.** Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation, or otherwise, of any of the Trustees of said Academy, the survivors or the residue of said Trustees shall fill the same, in such manner as shall be pointed out by the by-laws and regulations of said incorporation.

**Exempt from taxes.** Sec. 4. *And be it further enacted*, That all property owned by said Trustees, in their aforesaid corporate capacity, shall be vested with such body corporate in perpetuity, for the use of said Academy, and shall be, and it is hereby declared free from taxation.

Approved, Feb. 5, 2840.

[No. 69.]

### AN ACT

To incorporate a Male and Female Academy, at Mount Jefferson in the County of Chambers; and a Male and Female Academy, in Butler County.

**Incorporation** Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That there shall be established at Mount Jefferson, in the county of Chambers, an Academy, to be called and known as the Mount Jefferson Male and Female Academy; and that Epsy Tucker, Charles H. Lee, R. B. Coleman, James Clayton, R. J. P. McCants, and Thomas G. Loyle, and their associates in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Mount Jefferson Male and Female Academy; and as such, shall be capable and liable in law, to sue and be sued, to plead and be impleaded; and shall be authorized to make such laws and regulations as shall be necessary for the government of said Academy: *Provided*, that such by-laws and regulations are not repugnant to the constitution and laws of this State; and for that purpose may have and use a common seal, and appoint such officers as they may think proper, and remove the same from office for improper conduct or neglect of duty.

**Have power to hold property.** Sec. 2. *And be it further enacted*, That the Trustees aforesaid shall be capable of accepting and being invested of all manner of property, both real and personal, all donations, gifts, and immunities, whatsoever, which may belong and appertain to said institution, or which may hereafter be conveyed or transferred to them, or their successors in office, to have and to hold the same for the proper use and benefit of said Academy, not exceeding fifteen thousand dollars.

**Vacancies.** Sec. 3. *And be it further enacted*, That whenever any vacancy may occur, by death, resignation or otherwise, of any of the Trustees of said Academy, the remaining Trustees shall fill such vacancy in such manner as shall be pointed out by the by-laws and regulations of said incorporation.

**Exempt from taxes.** Sec. 4. *And be it further enacted*, That all property owned by the Trustees, for the benefit of said Academy, shall be free from taxation.



Sec. 5. *And be it further enacted*, That Edward Bowen, William Carter, Rufus George, John Carter, and Jesse Womack, be, and they are hereby incorporated Trustees of The Farmers Male and Female Academy, at Cartersville, in the county of Butler; and they are hereby declared to be a body politic and corporate, by the name and style of the Farmers Academy; and are hereby invested with all the powers and privileges, as Trustees of said Academy, that are extended and granted in the foregoing sections of this act, to the Trustees of the Mount Jefferson Academy. Incorporation  
Name and style.

Approved, Feb. 5, 1840.

[No. 70.]

## AN ACT

To amend the Charter of the City of Mobile, and the several acts in relation thereto.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*. That the corporation of the City of Mobile shall hereafter consist of a Mayor, a Board of Aldermen, and a Board of Common Council, and shall be known and styled as the Mayor and Aldermen and Common Council of the City of Mobile; and as such, shall be invested with all the rights, properties and powers, and liable for the discharge of all the duties, obligations and contracts, now appertaining to the Mayor and Aldermen of the City of Mobile. Name and style.  
Powers, &c.

Sec. 2. *And be it further enacted*, That the Mayor and Aldermen of the said city of Mobile, shall be elected in the manner heretofore provided by law. Elections.

Sec. 3. *And be it further enacted*, That the Board of Common Council shall consist of eight members, who shall be elected at the same time and places as is now provided by law for the election of Mayor and Aldermen. It shall be the duty of the several managers to provide separate boxes to receive the votes given for the members of the Common Council, who shall be elected by general ticket. No person shall be eligible to be elected a member of the Board of Common Council, who is not a citizen of the United States, who has not been a resident inhabitant of the city of Mobile for at least one year next preceding his election, and who is not in the actual possession of a freehold estate, held in his own right, and actually assessed by the city, with a tax on real estate of five dollars. Common Council.  
Qualification.

Sec. 4. *And be it further enacted*, That no person shall be qualified to vote for the Common Council, who is not a citizen of the United States, who has not resided in the city of Mobile for at least one year next preceding the election, and who is not assessed with a tax of five dollars on real and personal estate, by the city of Mobile. Qualification of voters.

Sec. 5. *And be it further enacted*, That the said Boards of Aldermen and Common Council, shall severally be the judges of the election and qualification of their respective members; and together, shall constitute a Board to determine the election of Mayor, if the same shall be contested. Judges of election.

Sec. 6. *And be it further enacted*, That the Mayor shall preside in the Board of Aldermen; and the Board of Common Council shall choose their presiding officer from their own body. The Treasurers. Presiding officers.

suror for the time being, shall also perform the duties of Clerk of the Common Council; and each Board shall keep and preserve a public record of all their proceedings.

Quorum.

Sec. 7. *And be it further enacted*, That all ordinances and resolutions may originate in either Board, but shall be passed by a majority of a quorum of both. A quorum for the transaction of business shall consist of not less than a majority of each Board.

Council to elect officers.

Sec. 8. *And be it further enacted*, That the Board of Common Council shall elect all the receiving and disbursing officers of the corporation, except those connected with the city police; and shall prescribe the amount of security to be given by every officer of the corporation for the performance of his duties, and apprise them of their securities. All other officers of the corporation shall be elected by joint vote of the Mayor, Aldermen and Common Council, assembled together by joint resolution.

Government and powers.

Sec. 9. *And be it further enacted*, That the Mayor and each of the Aldermen, and each member of the Board of Common Council, shall be conservators of the peace in and for the city of Mobile, and shall have power to examine and commit, or discharge on bail, all persons charged with offences not capital, in the same manner as justices of the peace; but shall exercise no other judicial functions whatever, and shall not receive any fees or perquisites.

Oath of office.

Sec. 10. *And be it further enacted*, That the Mayor, Aldermen and the members of the Board of Common Council shall severally take an oath, in addition to those prescribed by law, that they will not, during their continuance in office, be directly or indirectly engaged in any contract made with the corporation, or sell to, or buy from it, any article, interest, or matter whatsoever. And all contracts entered into, in which any officer or member of the corporation, other than for efficient services, shall be interested, either directly or indirectly, shall be wholly void.

Pay and salaries.

Sec. 11. *And be it further enacted*, That all ordinances regulating the pay and salaries of any member, officer or servant of the corporation, shall cease and determine in the same manner as if repealed at the expiration of the present municipal year, and no compensation shall be allowed or claimed, except by virtue of some grant, ordinance or resolution.

Mayor's salary.

Sec. 12. *And be it further enacted*, That the Mayor shall receive an annual salary of one thousand dollars, and no more, to be paid out of the city Treasury.

Recorder's election.

Sec. 13. *And be it further enacted*, That a Recorder shall be elected by a joint vote of the Mayor, Aldermen and members of the Council, and a majority of the whole number shall be necessary to elect. The Recorder shall, *ex officio*, be a justice of the peace, in and

To be *ex officio* justice of the peace.

for the city and county of Mobile, and shall possess the same powers and perform the same duties as other justices of the peace. He shall in addition thereto, exercise all the judicial powers now appertaining to the Mayor and Aldermen, or either of them by virtue of any law. He shall have jurisdiction of all cases arising under the city ordinances, not involving a larger sum than fifty dollars; and an appeal shall

be from his decision, in all cases in which an appeal is now allowed by law, and in the same manner as from the other justices of the peace. It shall be his duty on every day except Sunday, to hold a court in the Mayor's office, at such hour as he shall appoint, for the examination and trial of all offenders against the city ordinances, and for the examination of all offenders against the criminal laws of the State. He shall receive an annual salary of one thousand dollars, and no more, from the city Treasury; and in addition thereto, shall be allowed the same fees as are allowed to justices of the peace for like services. He shall hold his office for three years, unless sooner removed by a concurrent vote of a majority of the whole number of each Board of Aldermen and Common Council.

Recorder to  
hold courts.

Salary and  
fees.

Sec. 14. *And be it further enacted,* That the taxes on real and personal estate, and all other taxes and dues, shall be assessed in the manner provided by the existing laws; and the several assessments shall have the force and effect of a judgment at law, against the individual assessed with the same. It shall be the duty of the tax collector, after giving thirty days notice in some newspaper printed in the city of Mobile, that the city taxes, or the particular tax or dues, (as the case may be) are required to be paid to him on or before a certain day specified; if the same shall not be paid, to levy on the personal estate of the individual or corporation assessed, and to sell the same, or so much thereof, as shall be sufficient to pay the tax assessed, and one dollar to the tax collector for making the levy and sale; and the same shall be advertised for the space of ten days at the Mayor's office.

Assessment of  
taxes.

Collector's  
duty.

Sec. 15. *And be it further enacted,* That if any real estate shall be assessed to unknown owners, or to persons who are known, and the taxes or dues assessed on the same, shall not be paid, and cannot be collected by a levy and sale of personal estate, by the means provided by the foregoing section, within sixty days from the time when the said taxes or dues are required to be paid, then the tax collector shall give notice in some newspaper printed in the city of Mobile, or by a printed sheet circulated therewith, and also kept for public inspection at the Mayor's office, as shall be deemed most expedient and least expensive to the city, of the lots and real estate on which the taxes are unpaid, (describing the same by such numbers and abbreviations, as will indicate the lot to be sold,) that he will at a certain time and place named in the advertisement, proceed to sell such of the lots and lands upon which the taxes and dues shall not be paid, or so much thereof as shall be sufficient to pay the same; and on the day appointed, or such day as he may adjourn the sale, the tax collector shall proceed to sell any lot on which the taxes and dues shall not be paid, or so much thereof as will satisfy the tax, and one dollar as a fee for the advertisement and sale, and a certificate thereof.

Taxes:  
Nonresidents.

Sec. 16. *And be it further enacted,* That the tax collector shall give to the purchaser at such sale, a certificate to the following effect: "I, \_\_\_\_\_, tax collector of the city of Mobile, do hereby certify that the city taxes, for the year 18—, (or the particular tax or assessment, as the case may be) being due and unpaid on a lot of land in the said city, bounded and described as follows: (here shall be

Collector's  
certificate.

inserted a description of the lot,) I have this day sold the same, (or such undivided fractional part as he may sell) to ———, who has paid the taxes thereon, amounting to ——— dollars, including my fee of one dollar for the said sale, advertising and this certificate; and by virtue of the authority to me given by law, I authorize the said ———, and his assigns to hold the said premises until the same shall be redeemed according to law—Witness my hand and the seal of the corporation, this ——— day of ——— 18——” And the Mayor shall

Mayor's seal.

cause the seal of the said city to be affixed to the said certificate. The tax collector is hereby authorized and empowered and it shall be his duty to put the purchaser in possession of the premises sold to him, within thirty days after the sealing of the certificate, which shall be evidence of a right to possess the premises therein specified, and to retain the possession until the same shall be reclaimed in the manner hereinafter provided.

Clerk to record certificate.

Sec. 17. *And be it further enacted,* That it shall be the duty of the Mayor to cause the clerk of the corporation, or such other person as may be charged with the duties, to record each of the said certificates in a well bound book to be kept for that purpose, before he shall permit the seal of the city to be affixed, and no other fees or charges shall be received for the advertising such certificate, seal and record than as prescribed by this act.

Property how redeemed.

Sec. 18. *And be it further enacted,* That any lot thus sold may be redeemed within three months from the day of sale, by any person claiming title, who will deposit with the Treasurer of the city of Mobile, for the use of the purchaser, the amount of the loan and fees so paid, and twenty five per cent. on the same; and thereupon, the title created by the certificate aforesaid shall wholly cease and determine, and the purchaser and all others claiming under him, shall relinquish the possession; and shall, after notice of the said redemption, be deemed unlawful and forcible detainer of the said lot, and liable as such, to any suit or action, at the instance of any one entitled to the possession: and the said lot may in like manner be redeemed by any person claiming title at any time after three months, and within five years from time of sale, by paying into the office of the Treasurer as before provided, the amount of the taxes, fees and interest thereon, at the rate of twenty five per cent. per annum, from the day of sale; and on such payment being made, the title created by the certificate shall cease and determine on the first day of November next after the said payment, and the purchaser, and all others claiming under him, shall relinquish the possession; and after notice of the said redemption, shall be deemed unlawful and forcible detainer, and as such liable to any suit or action, at the instance of any one entitled to the possession.

Treasurer to give certificate.

Sec. 19. *And be it further enacted,* That it shall be the duty of the Treasurer of the city of Mobile to give any person who shall redeem any lot sold for taxes, a certificate to the following effect: I, ———, Treasurer of the city of Mobile, do hereby certify that ———, claiming title to a certain lot in the city of Mobile, known and described as follows: (here shall be marked a description of the

lot by metes and bounds) has this day paid into my office for the use of the purchaser, the sum of ——— dollars, being the amount for which said lot was sold, the fees thereon, and interest thereon, at the rate of twenty five per cent. per annum, (as the case may be) and the said lot is therefore redeemed. Witness my hand and the seal of the city of Mobile, this ——— day of ——— 18—. And it shall be the duty of the Mayor to cause the seal of the city to be affixed to the certificate, which shall be recorded in the same book as the certificates issued by the tax collector, and the Treasurer shall be entitled to receive a fee of one dollar for said certificates.

Sec. 20. *And be it further enacted*, That if the lots so sold shall not be redeemed within the period of five years from the day of sale, the purchaser, his heirs or assigns, may perfect the title to the lot purchased, by publishing the certificate issued by the tax collector, for the term of three months, in some newspaper published in the city of Mobile, with the following notice subjoined: All persons claiming an interest in the above described lot, are required to exhibit their claims by commencing suit against me in the circuit court of Mobile county, within six months from the date of this advertisement, or their claims will be forever barred. And if suit is commenced after the publication of such notice, no damages shall be recovered, nor shall a writ of possession issue on the writ of a recovery, unless the plaintiff shall pay the taxes due on the same, the fees and interest, at the rate of twenty-five per cent. per annum on the same, and the costs of the advertisement, to be adjudged by the court, on the suggestion of the defendant: *Provided, however*, That no estate of any infant, *feme covert*, or insane persons, shall be barred, if they commence their actions within three years after the removal of their disability to sue.

Property not redeemed in 5 years, title perfected.

Proviso.

Sec. 21. *And be it further enacted*, That the certificates aforesaid, shall be conclusive evidence of the regularity of all previous proceedings, and this act shall be construed as a remedial act.

Evidence.

Sec. 22. *And be it further enacted*, That the tax collected shall be charged with, and accountable for the whole amount of the assessed taxes for each year, and he shall only discharge himself from such accountability by shewing an account of the interest, insolvency of the persons assessed, and by showing that the amount of his account cannot be collected by the exercise of the means given by the foregoing sections.

Tax Collector's liabilities.

Sec. 23. *And be it further enacted*, That such part or portion of the assessed taxes as cannot be collected by the means before stated, shall continue a lien on the property assessed, until paid; and the tax collector shall be authorized from time to time, to offer and expose to sale, under the foregoing provisions, such lots as shall not have the tax paid thereon, and the same certificates shall be given in case of any subsequent sale, and similar proceedings shall be had thereon.

Lien on property.

Sec. 24. *And be it further enacted*, That if any purchaser of a lot under a sale by a tax collector, shall fail to meet or pay any subsequent tax or assessment, he shall forfeit all right under his certificate, and shall be bound to relinquish the possession; and if the said lot shall

Purchaser to pay tax, &c.

be subsequently sold for taxes, the person so holding under the first sale, shall, after notice, be deemed guilty of an unlawful and forcible detainer, and shall be liable to any suit or action at the instance of any person entitled to its possession.

Sec. 25. *And be it further enacted*, That it shall not be lawful for the Mayor and Aldermen and Common Council of the city of Mobile, to make any new streets, or to make any alterations, improvements or repairs of any already made, of which the whole cost and expenses, shall exceed five hundred dollars, unless upon the written application of the owners of at least one fourth in quantity of the property through or over which such new street, alteration, improvement, or repairs are desired to be made; and it shall be the duty of the Mayor to give notice of such application for thirty days in the newspapers of Mobile, or some one of them, in order that persons interested therein, may signify their objections to the same; and if after the expiration of such notice, the Board of Aldermen and Common Council ordain the making of the alterations, improvements or repairs of such streets, it shall be at the expense of those benefited by the same; and it shall be the duty of the Recorder to empanel a jury of twelve freeholders of the city of Mobile, who shall assess to the property benefitted, and adjacent to which, the proposed new street, alteration, improvement or amendment shall be made, the fractional part of the whole sum paid or expended, or directed by ordinance to be paid or expended, which assessment shall be a lien on the property, and be recovered by the said corporation by bill in equity for a contribution; and if the new street, alteration, improvement or repairs shall be requested by the owners of one fourth part of the property in manner aforesaid, and the same shall be made by reason of any ordinance of the corporation, the several parties benefitted as aforesaid, shall be compelled to contribute to the expense of making the same, although the forms prescribed by this section, may not have been strictly complied with, and the request and ordinance shall alone be deemed essential to create the claim for contribution.

Sec. 26. *And be it further enacted*, That all officers and servants of the said corporation, elected by the said corporation, or either branch thereof, shall be removed, in all cases not otherwise provided for by this act, by the same bodies which are invested with the power of election, and by the same vote as is required for an election, and the salary of said officer shall cease from his removal.

Sec. 27. *And be it further enacted*, That all acts and parts of acts coming in conflict with this act, shall be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 71.]

#### AN ACT

To Incorporate the Mobile and Blakeley Steam Ferry Boat Company.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John Bartlett, Moses Waring, B. Tardy, Cyrus Sibley, Patrick Byrne, M. C. Dennis, Isaiah Randall, and Oregon Sibley, and their associates, be, and they are hereby created a body corporate,

under the style of the Mobile and Blakeley Steam Ferry Boat Company; and shall by that name, be capable and liable in law to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any suit, matter, action or thing depending in any court of law or equity, and in general to do and perform any act or acts, which may be necessary to enable them to carry into effect the objects for which this charter of incorporation is granted.

Name and style.

Sec. 2. *And be it further enacted*, That the capital of said company shall not exceed forty thousand dollars, to be divided into shares of one hundred dollars each, the stockholders in which to be entitled to one vote in the management of the affairs of the company, for each share so held; and when the sum of ten thousand dollars shall have been subscribed, the subscribers thereof, may meet and organize themselves, by the election of such officers as they may deem necessary, and the passage of such by-laws as may be requisite, not contrary to the constitution of this State or of the United States, which may from time to time, be altered or increased as circumstances shall require; and a Board of Directors may be also appointed, should the number of stockholders render such a board more convenient for the transaction of the business of the company.

Capital not to exceed \$40,000.

Officers.

Sec. 3. *And be it further enacted*, That said company shall procure and run between the city of Mobile and the town of Blakeley, at least one first rate steam ferry boat, capable of carrying all the passengers, freight, horses, carriages, &c. as may ordinarily be required to be transported either way, and shall transport the same on board said boat or boats, except at such times as unavoidable accidents, or necessary repairs may render it necessary to run, row and sail boats, for short periods, which periods shall not exceed two weeks at any one time; during which time, they shall only be required to transport passengers and their baggage; and the said company shall have the exclusive right of so transporting passengers, horses, carriages, live stock and freight, or chattels of any description, whatever, for the term of ten years, from the first day of April, one thousand eight hundred and forty, or from such time as they may have put a good steam boat on said route, and obtain a certificate of the record thereof, in the clerk's office of the county court of Mobile county.

To run steam boat, &c.

Sec. 4. *And be it further enacted*, That said company shall receive the same rates of ferriage, freightage, &c. as were received by Captain John Fowler, of the steam boat Emeline, in 1834, and which are on record in the county court clerk's office, of Mobile county, and which shall be subject to such revision and alteration from time to time, not exceeding once a year, as may seem equitable and right, to the judge of the county court, and commissioners of roads and revenue of said Mobile county; and if said company or any person employed by them, shall at any time, charge higher rates than those allowed by said court, they shall forfeit and pay for every such offence, the sum of one hundred dollars, to be recovered with costs, before any court having jurisdiction thereof, which forfeiture, when collected, shall enure, one third part thereof to the person aggrieved, one third

Rates of ferriage and freights.

Penalty.



part the Treasury of Mobile county, and one third part to the Treasury of Baldwin county.

President  
to give bond.

Penalty for  
carrying pas-  
sengers.

Proviso.

Proviso.

Sec. 5. *And be it further enacted*, That the said company, by their President or chief officer, shall enter into a bond with a suitable penalty, to the judge of the county court and commissioners of roads and revenue for Mobile county, for the faithful performance of the requisitions of this act; and if any person or persons, after the said first day of April, 1840, or after said company shall have commenced running a steam ferry boat between Mobile and Blakeley, and given bond, and obtained certificate thereof, as aforesaid, shall transport or carry over for pay or hire, from Mobile to Blakeley, or from Blakeley, or any other point within five miles thereof, to Mobile, any person or persons, horse or horses, carriage or carriages, live stock, or freight, or chattels of any kind whatever, (except during such short periods as the company's boat may be lying up for repairs,) such person or persons so doing, shall forfeit and pay to the said company, for every such offence, the sum of fifty dollars, to be recovered before any court having jurisdiction thereof: *Provided, always*, That this act shall not be so construed as to prevent any person or persons from crossing or transporting freight in his or their own boat, or for others, and charging for such freights: *Provided*, That nothing in this act contained, shall operate so as to prevent the proprietors of the mail line between Mobile and Stockton, from carrying freight, passengers, horses, carriages, &c. as heretofore, and receive recompense therefor.

Company lia-  
for damages.

Sec. 6. *And be it further enacted*, That if any person or persons shall suffer loss or damage in their property or persons, by reason of any neglect or wilful misconduct of said company, or any of their agents, then the said company shall be liable to an action by the party aggrieved.

Power of  
county court.

Sec. 7. *And be it further enacted*, That if it shall be made to appear to the county court of Mobile county, that the company hereby incorporated, shall neglect or refuse to comply with the requisitions of this act, it shall be lawful for the county court aforesaid, to declare all the rights and privileges herein granted, to be forfeited.

Approved, Feb. 5, 1840.

[No. 72.]

#### AN ACT

To Incorporate the Wetumpka Insurance and Trust Company, of the State of Alabama.

Body corpo-  
rate.

Name and  
style.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Eli E. Gaither, Wiley W. Mason, Sampson W. Harris, Thomas W. Fleming, John Clark, Seth P. Stores, Lydel P. Saxon, Creel M. Jennings, and Samuel A. Billing and their associates, and all such persons as shall hereafter become stockholders in said company, shall be, and are hereby declared to be a body corporate and politic in fact, and known by the name of the Wetumpka Insurance and Trust Company, of the State of Alabama; and by that name, they and their successors shall and may have continual succession, and shall be capable in law of suing and being sued, impleading and being implead-



ed, answering and being answered unto, defending and being defended in all courts of law and equity in this State, and that they and their successors may have a common seal, and may change and alter the same at pleasure.

Sec. 2. *And be it further enacted*, That the corporation hereby created, shall have full power and authority to borrow and loan on such terms as may be agreed upon, to make insurance upon vessels, Powers. goods, wares and merchandise, freight, bottomry, *respondentia*, interest, inland navigation and transportation, and all other marine and river risks; also, to insure and take risks against fire, and on lives, receive money on trust and deposit, and also to loan money on bottomry and *respondentia*, to do and perform all necessary matters and things connected with the above objects, or any of them; and they may also cause themselves to be insured against risks, and for which they have made insurance, and upon the interest which they may have in any vessels, goods, wares or merchandise, in virtue of any such loans on bottomry and *respondentia*.

Sec. 3. *And be it further enacted*, That the capital stock of said company shall be fifty thousand, with the privilege of increasing it to one million of dollars, when the holders of the majority of the stock shall determine, to be divided into shares of one hundred dollars; and the said company shall be allowed to commence business as soon as the said capital of fifty thousand dollars shall be actually paid in; and the privileges hereby granted shall be, and continue in force for thirty years from the date of this act, and no longer. Capital stock.

Sec. 4. *And be it further enacted*, That stock and affairs of the said company shall be managed and conducted by seven Directors, Directors. each of whom shall be a stockholder to the the amount of at least twenty shares, and a citizen of the United States; and they shall be elected at such time and place as the Board of Directors for the time being, shall appoint, and shall hold their offices for one year, and until others shall be chosen to supply their places, and no longer; and said elections shall be made by ballot by a plurality of the stockholders present, allowing one vote for every share; and stockholders not personally present may vote by proxy, such proxy being granted directly to the person representing them at such election; and the first Directors of said corporation shall be the seven persons first mentioned in this act, who shall continue in office until their successors are elected.

Sec. 5. *And be it further enacted*, That the Directors herein before mentioned, shall, so soon as may be after the passage of this act, and the Directors to be chosen at such annual elections shall, so soon as may be after every election, proceed to choose out of their body a President. President. a person to be President, who shall serve until the next annual election thereafter, or until another President shall be chosen; and in case of the death or resignation of the President or any Director, such vacancy may be filled for the remainder of the year, by the Board of Directors, Vacancies. and in case of the absence of the President, the Board of Directors shall have power to appoint a President *pro tempore*, who shall have and exercise such powers and functions as the by-laws of the said corporation may provide.

Neglect, &c. Sec. 6. *And be it further enacted*, That in case it should at any time happen that an election of Directors shall not be made on the day, when pursuant to this act it shall be made, the corporation shall not for that cause be deemed to be dissolved, but an election at any other day to be appointed by the by-laws and ordinances, may be made.

Terms of payment. Sec. 7. *And be it further enacted*, That it shall be lawful for the President and Directors of the said company, to regulate the terms of payment for the stock subscribed, or to be subscribed, and that the stock of said company shall be assignable and transferable, according to such rules, and subject to such restrictions as the Board of Directors shall, from time to time, make and establish, and shall be considered personal property.

Board. Officers. Sec. 8. *And be it further enacted*, That the major part of the Directors shall constitute a Board, and be competent to the transaction of all the business of the corporation; and shall be competent to provide by by-laws for the appointment of all officers, assistants and servants, necessary for the management of said corporation, and prescribe the duties and salaries; and declare and make dividends of the profits, establish rules for the management and disposition of the property and effects of the company, and all matters appertaining thereto.

May hold property. Proviso. Sec. 9. *And be it further enacted*, That it shall be lawful for the said corporation to purchase and hold such, and so much real estate as shall be necessary and convenient for the transaction of its business; and also, to take and hold any real estate as security, *bona-fide*, mortgaged or pledged, to said corporation, either to secure the payment of capital stock, or to secure the payment of any debt that may be due to it, and also to purchase on sale made by virtue of any judgment at law, or any order or decree of a court of equity, or otherwise to receive and take any real estate in payment, or towards satisfaction of any debt contracted and due to said corporation, and to hold the same until they can conveniently sell and convert the same into money, or other personal property: *Provided always*, That it shall not be lawful for the said corporation to deal, or use, or employ, any part of the stock, funds or money, in buying or selling any goods, wares or merchandise, or in the purchase or sale of any stock or funded debt, contracted or to be contracted, by or under any act of the United States, or of any particular State, or to emit any notes or bills, or make any contracts for the payment of money, only except under the seal of the said corporation, and all such notes and contracts shall be to all intents and purposes, taken to operate as specialties at law, but it shall nevertheless be lawful for the said corporation to purchase and hold any such stock, or funded debt, as last aforesaid, for the purpose of vesting any part of the capital stock, funds, or money, therein, instead of investing the same in and upon any real security; and also, to sell and transfer the same, and again invest the same, or any part thereof, in such stock or funds, whenever and as often as the exigencies of the said corporation, or a due regard to the safety of its funds shall require; and also, to purchase and sell

exchanges and other choses in action, and make loans of its capital stock or funds, on bonds or mortgages, or personal security, and the same to call in and reloan on like security, as the occasion may require.

Sec. 10. *And be it further enacted*, That all policies of insurance and other contracts, which shall be made or entered into by the said corporation, may be made either under or without the seal thereof, and shall be subscribed by the President or such other officer as shall be designated for that purpose, by the by-laws of the said corporation, and attested by the Secretary, and being so signed, executed, and attested, shall be binding and obligatory upon the said corporation, according to the tenor, intent, and meaning of this act; and of such policies and contracts may be so made, and the business of the corporation may be otherwise conducted and carried on without the presence of a Board of Directors, by the President or assistant, or either of them, or of such committee, done in conformity to the by-laws of said corporation, shall be binding and obligatory on it, to all intents and purposes. Policies.

Sec. 11. *And be it further enacted*, That this act shall be, and is hereby declared to be a public act, and that the same be construed in all courts and places, benignly and favorably, for every beneficial purpose herein mentioned: *Provided*, That the powers and privileges in this act conferred, shall be subject to any future legislation, and that the same may be altered, modified, or repealed, as the Legislature may deem fit. How construed.  
Proviso.

Sec. 12. *And be it further enacted, by the authority aforesaid*, That the individual property of the stockholders shall be bound for all contracts or liabilities made by said company, so long as he, she, or they shall continue a stockholder, and all transfer of stock six months previous to the failure of said company, shall not release the person or persons so transferring the same from any contracts or liabilities which are incurred whilst they were stockholders. Stockholders liable.

Sec. 13. *And be it further enacted*, That the said company shall own no real estate except such as may be necessary for the convenient transaction of the business, or such as may be conveyed to it as security, or in satisfaction of debts due to it, or under mortgage. To hold property.

Sec. 14. *And be it further enacted*, That nothing in this act shall be so construed as to give to said incorporation Banking powers, and they are hereby prohibited from issuing notes to answer the purposes of currency in any manner whatever. Banking, &c.

Approved, Feb. 4, 1840.

[No. 73.]

### AN ACT

To Incorporate the Town of Linden, in Marengo County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all that tract of land situated in Marengo county, contained within and consisting of the following parcels, to wit: the northwest quarter of section four, the northeast quarter of section five, in township fifteen, of range three, east; the east half of the southwest quarter, Corporate limits.

the east half of the northwest quarter, and the northeast and the southeast quarters of section thirty-two, and the northwest and the southwest quarters of section thirty-three, in township sixteen of range three, east ; in which is included the town of Linden, be, and the same is hereby incorporated by the name and description of the Town of Linden.

Election.  
when held.

Sec. 2. *And be it further enacted*, That on the second Monday of January, in the year eighteen hundred and forty, or within sixty days thereafter, and on the second Monday in February, in each and every year thereafter, an election by ballot shall be held at some convenient place in said town, for five Councilmen, resident land holders in said town, who shall serve one year from said election, and until their successors in office shall be qualified; and the Councilmen thus elected, at their first session thereafter, by a majority of their votes shall elect from their body a president, and the said president and council, are hereby constituted and declared to be a body politic and corporate, by the name and style of the President and Council of the Town of Linden; and by that name they and their successors, shall be capable to sue and be sued, to plead and be impleaded, in all manner of suits at law and equity; shall have a common seal which they may alter at pleasure; may purchase, have, hold, possess, enjoy and retain in perpetuity, or for a term of years, any estate, real and personal, to the value of fifty thousand dollars.

Oath.

Sec. 3. *And be it further enacted*, That the president and each member of the council, and all other officers of the corporation, before entering upon the duties of their office, shall take an oath before some justice of the peace, or other judicial officer of said county, faithfully and impartially to discharge the duties of their office; and it shall be the duty of the president to preside at all meetings of the council, but in his absense, any member may be called to the chair; and a majority of the council shall, at all times constitute a quorum for business; and the president and council are hereby invested with, and shall have full power and authority to make and pass all such by-laws and ordinances, not repugnant to the constitution and laws of this State, and of the United States, as they shall deem necessary for the good government of said town, and to annex such fines and penalties as will enforce the same.

Fines. &c.

Powers of  
President and  
Council.

Sec. 4. *And be it further enacted*, That the president and council be, and they are hereby vested with full powers to carry in effect all the objects of the corporation, as well for the good government, as also for the preservation of the health of said town: they are therefore, hereby fully authorized and empowered to levy and collect a tax annually, on all property and objects within the limits of said corporation, liable, by the laws of this State to taxation; also to remove all nuisances, and to open and preserve, through any lots, lanes, fields, and other inclosures, such canals, ditches, aqueducts, and other water passes as the preservation of the health of said town, may to them seem to require: *Provided*, That no tax to be levied after the year one thousand eight hundred and forty-one, shall exceed the State tax, provided by an act passed the tenth January,

Proviso.

eighteen hundred and thirty-five, entitled, an act to raise a revenue for the support of government, until otherwise altered by law : *And provided, also*, That no land within the limits of the corporation not now laid off into town lots, shall be estimated, valued, and taxed as town lots, until the same be actually laid off and disposed of by the owner, as town lots ; but the same may be rated and given in by the owners, and by the president and council taxed, as by the law of this State similar farming lands are given in and taxed : *And provided, also*, That the president and council shall have no power to open streets, roads or alleys, through any of such farming land without the consent of the owners thereof. Proviso.

Sec. 5. *And be it further enacted*, That the president and council shall appoint annually, a constable, clerk, tax collector and all other necessary officers, who shall enter into bond with security, to be approved by the president ; the constable in such sum as constables by law are required to enter into bond for, payable to the Governor and his successors in office, the clerk, tax collector, and other officers, in such sum as the President and Council shall direct, payable to the President and Council of the Town of Linden ; conditioned, faithfully and impartially to execute and perform the duties of their respective offices, and to account for and pay over all moneys which may come into their hands by virtue of their offices, according to law and the ordinances of the corporation ; and the constable shall be, and he is hereby vested with all the powers, authorities and immunities, that constables of the said county are vested with, and may and shall exercise the same within the limits of the corporation, and shall be liable to the same restrictions, penalties, and proceedings as by the laws of this State, constables are made liable to ; and if the constable or any other officer of the corporation, entrusted with the collection or keeping of the funds and moneys of the corporation, or of any other moneys by virtue of his office, shall fail to apply, pay over, and account for the same according to law, and the ordinances of the corporation, such constable or other officer and his securities, or any one or more of them, shall be liable to be proceeded against at the suit of the party entitled to recover ; for all sums not exceeding fifty dollars, by motion before the president, or a justice of the peace, of the said county ; and for all sums over fifty dollars, by motion in either the circuit or county court of said county, upon five days previous notice of such motion, to the defaulter ; and the said president, justice of the peace, or circuit or county court, is hereby authorized and required to take cognizance of said motion, and to hear and determine the same, and to give judgment and award execution against such defaulter, and his securities, or any one or more of them, for such sum as he may be in default for, together with five per cent. per month upon the amount, from the time of such default, until the same shall be paid. Officers, &c.

Sec. 6. *And be it further enacted*, That any vacancy which may at any time, occur in the council, shall be filled by the remaining members of the council, until the next succeeding election and qualification of successors ; the first election for councilmen shall be Vacancies.

Elections.

held at the courthouse in Linden, by David Curry, Amos R. Manning, William Robinson, William M. Brooks, and Elisha Adams or by any two or more of them on the second Monday of January, eighteen hundred and forty, or within sixty days thereafter, who shall give ten days previous notice of said election by advertisement put up at three or more public places in said town; and the councilmen then elected shall hold their office until the second Monday of February, in the year eighteen hundred and forty-one, and until their successors shall be duly elected and qualified; and all subsequent elections for councilmen, shall be held by any two or more resident householders within said corporation to be appointed by the president, ten days previous notice thereof being given; and all elections shall be opened at the hour of eleven in the morning, and close at the hour of four in the afternoon of the same day, when the managers shall proceed to count out the votes, and publicly declare the result.

Qualification of voters.

Sec. 7. *And be it further enacted*, That all free white male persons of the age of twenty-one and upwards, who shall have resided three months next preceding any and all elections for councilmen, and all free white male persons who shall be land holders or householders within the limits of said corporation, shall be entitled to vote at such elections; and all persons residing within the limits of the corporation who shall be liable to work on roads, shall be liable to work on all the roads, streets, lanes, alleys, ditches, canals, aqueducts, and water passes within the limits of the same, but no person residing without the limits of the corporation, shall be compelled to work on any roads, alleys, &c. within the same.

Justice of the Peace and Constable.

Sec. 8. *And be it further enacted*, That nothing in this act shall be so construed as to prohibit or dispense with the justice of the peace and constable in and for the beat in which said town is situated, as now provided for by law, nor to prevent said justices of the peace and constable from exercising their offices in said town; and the constable of said town may and shall execute within the limits of the corporation any process issued by a justice of the peace of the county.

Repeal.

Sec. 9. *And be it further enacted*, That an act passed the second day of February, eighteen hundred and thirty-nine, entitled, an act to incorporate the Town of Linden, in the county of Marengo, be, and the same is hereby repealed.

President ex officio justice of peace.

Sec. 10. *And be it further enacted*, That the president shall, *ex officio*, be, and he is hereby vested with all the powers, privileges, authorities, and immunities that justices of the peace, by the laws of this State are vested with, and may and shall exercise the same, within the limits of the corporation, and shall be liable to the same restrictions and penalties, as justices of the peace, by law, are made liable to.

Exempt from working on roads.

Sec. 11. *And be it further enacted*, That all persons residing within the limits of said corporation, who shall be liable to work on roads, shall be exempt from working upon any road or roads beyond the limits of said corporation.

Approved, Feb. 5, 1840.

[No. 74.]

## AN ACT

To revive an act therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* Act revived.  
That an act entitled an act to define the limits of the town of Somerville, in the county of Morgan, and to incorporate the same, approved January 19, 1839, be, and the same is hereby revived; and that the election of five Councillors provided for in the second section of said act, may be holden as therein provided for, on the first Monday Election, when held. in March, 1840.  
Approved, February 5, 1840.

[No. 75.]

## AN ACT

To change the mode of Reporting the Decisions of the Supreme Court.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,*  
That from and after the passage of this act the office of Reporter of the Decisions of the Supreme Court shall be, and the same is hereby Office of Reporter abolished. abolished, and the duties thereof shall be performed by the Judges of the Supreme Court, under the same rules and regulations as now Judges to report, &c. provided by law: *Provided,* Said Judges shall not be required to give the bond required by law, of the Reporter of the Supreme Proviso. Court Decisions.

Sec. 2. *And be it further enacted,* That in consequence of the increased labors hereby imposed on them, the salaries of said Supreme Court Judges, shall hereafter each be annually Twenty-Six Salary. Hundred Dollars, to be paid quarterly as heretofore, so long as they continue to Report the Decisions of said Court: *Provided,* Said Proviso. Judges shall receive no other compensation or profits for the discharge of their duties, than those herein specified.

Sec. 3. *And be it further enacted,* That an act passed January 9, 1836, entitled an act to amend the laws now in force, providing for the publication of the Supreme Court Decisions be, and the same is hereby repealed: *Provided,* That the present Reporter of the Supreme Court Decisions, shall have authority to complete the volume of Repeal. Reports now in progress under the law as it has heretofore existed. Proviso.

Sec. 4. *And be it further enacted,* That the Judges of the Supreme Court shall have authority to print, at their own expense, any Judges may sell Reports out of State. number of copies of any volume of Reports, not exceeding five hundred, to be disposed of out of the limits of this State.

Approved, February 5, 1840.

[No. 76.]

## AN ACT

To Incorporate Evergreen Male and Female Academy, in the County of Conecuh.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,*  
That an Academy be, and the same is hereby incorporated, in the Incorporation county of Conecuh, to be styled Evergreen Male and Female Academy, and that Reverend Alexander Travis, Reverend Blanton P. Box, Jephtha Perryman, John Crosby, John D. Travis, Garland,

Name and style. Good, Alexander Perryman, and Nicholas Staliworth, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of Evergreen Male and Female Academy; and as such shall be capable and liable in law or equity, to sue or be sued, plead and be impleaded; and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy, and for that purpose may have and use a common seal, and appoint such officers as they may think proper, and remove the same for improper conduct or neglect of duty: *Provided*, Such by-laws are not repugnant to the laws and constitution of this State, and of the United States: *Provided, however*, Said body corporate shall have full power to prevent the vending or disposing of, in any way, ardent spirits of any kind, within one mile of said Academy; and the limits of this incorporation, shall be one mile in every direction from said Academy, measuring from the same.

Proviso. *Provided*, *however*, Said body corporate shall have full power to prevent the vending or disposing of, in any way, ardent spirits of any kind, within one mile of said Academy; and the limits of this incorporation, shall be one mile in every direction from said Academy, measuring from the same.

May hold property. Sec. 2. *And be it further enacted*, That the said Trustees or body corporate, shall be privileged to accept of, and be interested in all manner of property, either real or personal; also, all donations, gifts, grants, privileges and immunities, whatsoever, which may be made or granted to said institution, or which may be hereafter conveyed or transferred to them or their successors in office, to have and to hold the same for the proper use, benefit and behoof of said Academy.

Vacancies. Sec. 3. *And be it further enacted*, That when any vacancy may occur by death, resignation or otherwise, of any of the Trustees of said Academy, the survivors or the residue of said Trustees, shall fill the same in such manner as shall be pointed out by the by-laws and regulations of said incorporation.

Exempt from taxes. Sec. 4. *And be it further enacted*, That all property owned by said Trustees in their aforesaid corporate capacity, shall be vested with such body corporate in perpetuity, for the use of said Academy, and shall be, and is hereby declared free from all taxation.

Approved, February 5, 1840.

[No. 77.]

# AN ACT

To Incorporate the Gainesville Lyceum.

Incorporation. Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Henry B. Bacon, Anson Brackett, Harrison W. Covington, Jacob Metcalf, and others their associates and successors, those who now are, or shall hereafter be, members of the Gainesville Lyceum, are and shall be a body corporate, for the purposes of the said Lyceum, its services and occasions, by the corporate name and style of the Gainesville Lyceum; and in such corporate name, style, and capacity, may take, purchase, and hold property and estate, real and personal, necessary and proper for the use of said Lyceum, to any amount not exceeding thirty thousand dollars, which shall be exempt from taxation; and in said name may sue and be sued, prosecute and defend, and have all legal remedies whatsoever.

Name and style. Have power to hold property.



Sec. 2. *And be it further enacted*, That the members of said Lyceum may organize under this charter, and choose a President, Secretary, Librarian and Treasurer, and such other officers as shall be found necessary or convenient in the organization of said Lyceum, and in the prosecution of its purposes and objects; and an election for said officers shall be held annually thereafter, or at such other times as said Lyceum shall, by by-laws designate and establish.

Sec. 3. *And be it further enacted*, That the members of said Lyceum, when organized, may adopt all such by-laws and regulations, not inconsistent with the laws and constitution of the State of Alabama, as they shall deem necessary for the transaction of their business, the conduct of their meetings, and the preservation and use of their library, books, paper and other property; and may impose and collect such penalties for violation of such by-laws, not exceeding ten dollars, for any one offence or delinquency, as they shall decide, and by previous vote or law establish.

Approved, February 5, 1840.

[No. 78.]

#### AN ACT

To amend an act entitled an act to provide for the security of Merchants, Mechanics and others, furnishing materials or stores, to Steam-Boats or other Water-Craft, in the State of Alabama, approved January 9th, 1836.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*. That from and after the passage of this act, the claims or demands of the boat hands or laborers, upon any Steam-Boat or other Water-Craft, within the State of Alabama, shall have priority of all claims, and shall be first paid; and the claims or demands of the officers shall next be paid, from the proceeds of the sale of any Steam-Boat or other Water-Craft, which may hereafter be sold under the provisions of the above recited act. If the said Steam-Boat or other Water-Craft shall not sell for an amount sufficient to pay off all claims against the same so libelled, then the said amount shall be divided among all said claimants *pro rata*, according to priority of lien, according to the provisions of this act.

Approved, February 5, 1840.

[No. 79.]

#### AN ACT

To prohibit foreign Corporations from exercising Banking privileges in the State of Alabama.

Whereas, sundry foreign corporations, having been in the habit of exercising the banking privileges conferred upon them by other States or countries, by purchasing bills of exchange, or by discounting promissory notes, within the State of Alabama, in violation of the sovereignty and rights of the said State, and against the true policy and interest thereof; therefore—

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall not be lawful for any corporation invested with the privileges of banking, and the au-

thority of discounting bills of exchange and promissory notes, by any State, other than the State of Alabama, to exercise such privileges by agent or otherwise, within the limits of the State of Alabama.

Penalty for  
violation.

Sec. 2. *And be it further enacted*, That the agent or agents of any such corporation, who shall violate the provisions of this act, shall be liable to prosecution for the same in the Circuit Court of the county where the offence may be committed; and upon indictment and conviction, shall be fined in a sum not less than two thousand dollars.

Approved, February 5, 1840.

[No. 80.]

#### AN ACT

To increase the Supreme Court Library.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened*, That hereafter the proceeds of the sales of the Decisions of the Supreme Court, after paying the expenses of printing, shall be applied, under the direction of the Governor and Supreme Court Judges, to the purchase of books for the Supreme Court Library.

Approved, February 5, 1840.

[No. 81.]

#### AN ACT

To organize the Courts of the Tenth Judicial Circuit, and for other purposes.

Conecuh  
when held.

Baldwin.

Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the times for holding the Courts of the Tenth Judicial Circuit, shall be as follows: In the county of Conecuh, to be held on the first Monday of April, and third Monday of October, of each year, and to continue in session for one week; in the county of Baldwin, on the second Monday of April, and fourth Monday of October, in each year, and to continue in session one week; in the county of Mobile, on the third Monday of April, and the first Monday after the fourth Monday of October in each year, and to continue in session until the business is finished. And all process now issued, or which shall hereafter issue returnable to the terms of the said Courts as fixed by law at this time, shall be returnable to the terms as fixed by this act, and shall have full force and effect.

Mobile—two  
terms.

Sec. 2. *And be it further enacted*, That in addition to the terms of the Circuit Court as herein provided to be held in the county of Mobile, there shall be held two terms for the trial of criminal causes and a jail delivery, to be held on the fourth Monday of February and June of each year, and to continue in session until the business is closed.

Grand Jury.

Sec. 3. *And be it further enacted*, That the Grand Jury summoned for the fall term of the Circuit, shall serve at the February term of the Special Court; and the Grand Jury summoned for the spring term of the Circuit Court, shall serve at the summer term of the Criminal Court: *Provided*, That the Judge of said Court shall have power within the first three days of the special term to draw a Grand Jury, or any number of Grand Jurors to supply the places of any who shall be sick, absent, or excused from service on the same;

and the said Court shall have the same powers for the purpose of forwarding business as is confided to the Circuit Court.

Sec. 4. *And be it further enacted*, That the Judge of the said Court shall direct at such term, the number to be summoned on the Petit Jury for the ensuing term, which shall be done in the mode prescribed by law. Petit Jury.

Sec. 5. *And be it further enacted*, That the Judge of the said Court, shall not be required to alternate with the Judges of the other Circuits; but may do so when he deems it necessary. Judge not required to alternate.

Sec. 6. *And be it further enacted*, That the Judge of the said Circuit shall have power to fix the times of pleading and rules of practice, and may make such modifications in the process and pleadings in the Circuit Courts of Mobile as he may deem necessary: *Provided*, That the same shall be submitted to and approved by the Judges of the Supreme Court. Judge to fix times of pleading, &c.  
Proviso.

Sec. 7. *And be it further enacted*, That whenever, in consequence of the prevalence of any pestilence, contagious disease or other good cause, it shall become necessary, the Judge of the said Circuit shall have the power to fix another time for the holding of the Courts aforesaid in the county of Mobile than is herein prescribed, and all the business that the Court shall have power to transact at the regular term may be transacted at the adjourned term: *Provided*, That twenty days notice of the time and place of holding such adjourned term, shall be given by advertisement in two papers published in the city of Mobile. For holding court.

Approved, February 5, 1840.

[No. 82.]

### AN ACT

To prescribe the mode of Contesting certain Elections therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That when any election shall be holden for Sheriff, Clerk of the Circuit Court, and Clerk of the County Court, in any of the several Counties of this State, and any person, being a qualified voter, shall desire to contest the same, it shall be his duty to give the person whose election he disputes, a notice in writing, setting forth the grounds of such contest; which notice shall be served by the sheriff, coroner, or some constable, personally, upon the party whose election is contested, or a copy thereof, left at his usual place of residence, within twenty days after the day upon which said election shall have been holden. Mode of contesting certain elections.

Sec. 2. *And be it further enacted*, That the evidence which may be desired by either party shall be taken by depositions, and by giving the proper notices as are now prescribed by law, in the case of a contested election for members to the legislature. Evidence, &c

Sec. 3. *And be it further enacted*, That when any election shall be holden in any of the counties of this State for sheriff, clerk of the circuit court, and clerk of the county court, it shall be the duty of the managers holding such election, to retain in their possession, sealed up and secured, the tickets or votes given in at such election, for the space of twenty days; and should notice be given to them Duty of Managers holding elections.

Proviso.

within that time, by any of the candidates, that the election will be contested, then to make return of all the tickets or votes sealed up as aforesaid, given in at any such election to the Judge of the Circuit Court, who shall keep the same together with the certificate of the person elected, for the space of twenty days, in order that said election may be contested by any one being a candidate : *Provided*, That if the notice as aforesaid, should not be given to the person aforesaid, within the period aforesaid, it shall be his duty to destroy the tickets or votes as is now in other cases prescribed by law.

Duty of Circuit Court Judges.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Judge of the Circuit Court, after the coming in of the testimony, so taken as aforesaid, to hear and determine whether the said election has been legally or illegally conducted, and if, in his opinion, such election has been lawfully conducted, he shall certify the fact to the Governor, who shall thereupon commission the person in whose favor the certificate appears; and should the Judge of the Circuit Court determine the election to be void, upon a full hearing of all the facts and circumstances, and certifying the same to the Governor, the Governor shall thereupon order a new election.

Governor to order new election.

Repeal.

Sec. 5. *And be it further enacted*, That all laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 83.]

#### AN ACT

To repeal in part an act entitled an act to Amend and Consolidate the Laws on the subject of Public Roads, so far as relates to Causeways.

Repeal, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That so much of the fourth section of the above recited act as relates to the width of causeways on roads of the second grade, be, and the same is hereby repealed.

3d grade 10 ft wide.

Sec. 2. *And be it further enacted*, That from and after the passage of this act, all causeways hereafter to be constructed, on roads of the second grade in this State, shall be ten feet wide.

Damages for timber.

Sec. 3. *And be it further enacted*, That hereafter when any person shall claim damages for timber which may be wanted to repair any public road, it shall be his duty to give notice thereof in writing, to the overseer of the road, and it shall, thereupon be the duty of such overseer, to keep an accurate account of the number and quality of the trees taken by him to repair such road, and return such account forthwith, under oath, together with the notice received by him from the owner of the land, to the commissioners of roads and revenue of the county : it shall, thereupon be the duty of the commissioners of roads and revenue, with the judge of the county court, at their first meeting thereafter, to assess the value of such timber, and to allow the same to be paid out of the county treasury, and they shall, moreover, hear such testimony as the owner of the land may desire to offer in relation to the value of the timber : *Provided*, That the provisions of this section shall extend only to the counties of Dallas, Perry, and Greene.

Proviso.

Sec. 4. *And be it further enacted*, That all laws and parts of laws contravening the provisions of the foregoing section, be, and the same are hereby repealed, so far as the same relates to the counties therein named. Repeal.

Approved, February 5, 1840.

[No. 84.]

#### AN ACT

To provide for the appointment of a Special Coroner in certain cases.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter, when the Sheriff and Coroner of any county shall be disqualified by reason of interest in any cause then pending, or to be instituted in any court of said county, it shall be the duty of the Judge of the County Court, in all such cases, to appoint a special Coroner, who shall be authorized to execute all necessary process therein. Special Coroner.

Approved, Feb. 5, 1840.

[No. 85.]

#### AN ACT

Concerning Replevy Bonds under Writs of Injunction.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter, when the defendant in any cause shall fail or refuse to give bond and security in a reasonable time, for the forthcoming of property taken under a Writ of Injunction, according to the directions of the Chancellor or Judge ordering the same, it shall be lawful for the Chancellor to order the property to be delivered to the complainant, on his giving bond and security, with such condition, and in such sum as the Chancellor may prescribe, so as to secure the property to abide the event of the suit; and should such bond be forfeited, the Court of Chancery shall make such decree against all or any of the obligors therein, as the justice of the case may require. Defendant failing to give bond.

Approved, Feb. 5, 1840.

[No. 86.]

#### AN ACT

To appoint Administrators in certain cases.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be the duty of the several Judges of the County Courts in this State, to appoint a suitable person in their respective counties, whose duty it shall be to take charge of the estates of deceased persons, in such cases only, where no other person will administer on the same, and said persons so appointed, shall be required to discharge all the duties now required of Administrators, and may be required to renew their bonds from time to time, and said persons shall be subject at all times to removal, for neglect of duty or malpractice in the discharge of his duties. Judges to appoint Administrators.

Sec. 2. *And be it further enacted*, That the County Court shall be also authorized to appoint a suitable person in their respective counties, whose duties it shall be to act as guardians in all cases, similar to those provided for in the foregoing section, and under the like liabilities and restrictions. Guardians.

Approved, Feb. 5, 1840.

[No. 87.]

## AN ACT

To alter the time of holding certain Courts therein named.

Coosa county.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the fall term of the Circuit Court, to be holden for the county of Coosa, in the year of our Lord, eighteen hundred and forty, shall commence on the first Monday in September next, and shall continue two weeks, unless the business be sooner disposed of.

Tallapoosa.

Sec. 2. *And be it further enacted,* That the fall term of the Tallapoosa Circuit Court, to be holden in the year of our Lord, eighteen hundred and forty, shall commence on the third Monday in September next, and shall continue two weeks, unless the business be sooner completed.

Chambers.

Sec. 3. *And be it further enacted,* That the fall term of the Circuit Court, for the county of Chambers, to be holden in the year of our Lord, eighteen hundred and forty, shall commence on the first Monday after the fourth Monday in September next, and continue in session two weeks, unless the business be sooner disposed of.

Special court:  
Judge to give  
notice.

Sec. 4. *And be it further enacted,* That it shall be the duty of the presiding Judge of the eighth judicial circuit, and he is hereby required at the ensuing spring term of the Circuit Courts for the counties of Coosa and Tallapoosa, to give notice at what time between the spring and fall terms of said courts, he will hold a special term for each of the counties of Coosa and Tallapoosa; and he shall adjourn the spring terms of said courts, severally, to the time appointed for holding the special term, each in its own appropriate county: *Provided, however,* That if necessary, he shall order a jury to be drawn for each of the special terms for said counties; which terms shall be esteemed adjourned terms of said spring courts.

Proviso.

Process.

Sec. 5. *And be it further enacted,* That all writs and process which are now, or may hereafter be made returnable to the ensuing fall terms of the respective Circuit Courts, for the counties of Coosa, Tallapoosa and Chambers, as the same are now fixed by law, shall be deemed and construed as returnable to the terms of said courts respectively, as herein established: *Provided, however,* That nothing in this act shall be so construed as to alter the time of holding any other than the fall terms of said several courts herein named, after which fall terms the said courts shall be holden as now provided by law.

Approved, Jan. 29, 1840.

[No. 88.]

## AN ACT

To amend the Charter of the Corporate Town of North Port.

Limits of  
North Port.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all that portion of territory lying near North Port, commencing at the ravine east of said town, where Columbus street crosses the same, thence east to Bridge street, thence down said street, south, to the northern boundary line of a lot owned by George Teirce, thence east to the eastern boundary line of said lot, thence south to the river, and thence west down the river, so as to intersect the old line of said

town at the mouth of the said ravine, shall become and form a portion of the corporate limits of said town of North Port.

Approved, Feb. 5, 1840.

[No. 89.]

### AN ACT

To Incorporate the Dayton Male and Female Academy.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an Academy be, and the same is hereby incorporated near the town of Dayton, in Marengo county, to be styled the Dayton Male and Female Academy; and that R. G. Cooke, C. Black, A. Springfield, A. Duff, S. G. Askew, H. Brame, J. Conner, J. S. Moore, D. M. A. Dansby, T. W. Price, J. W. Conner, J. Goodwyn, W. F. Henry, M. G. Askew, J. C. Langhorne, T. Clarke, S. W. Vaughan, R. Bonds, J. S. Morgan, D. Steward, W. Lismby, J. Loid, R. R. Pickering, R. W. Kirksey, J. Kirksey, T. J. Ford, J. C. Dansby, S. Conner, W. P. Lancaster, S. Shepherd, T. Batt, B. Lockhart, E. Baptist, B. Glover, D. H. Trippe, W. Browning, J. C. Hays, J. C. Catling, L. Simmons, T. Holt, E. Harris, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Dayton Male and Female Academy; and as such shall be capable and liable in law or equity, to sue and be sued, plead and be impleaded; and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy: *Provided*, Such by-laws are not repugnant to the laws and constitution of this State, and of the United States, and for that purpose may have and use a common seal, appoint such officers as they may think proper, and remove the same for improper conduct or neglect of duty.

Name and style.

Proviso.

Sec. 2. *And be it further enacted*, That the said Trustees or body corporate, shall be privileged to accept of, and be invested with all manner of property, either personal, real or mixed; also, all donations, gifts, grants, privileges and immunities, whatever, which may be made or granted to said institution, or which may be hereafter conveyed or transferred to them or their successors in office, to have and to hold the same for the proper use, benefit and behoof of said Academy.

May hold property.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation, or otherwise, of any of the Trustees of said Academy, the survivors or the residue of said Trustees, shall fill the same in such manner as shall be pointed out by the by-laws and regulations of said corporation.

Vacancies.

Sec. 4. *And be it further enacted*, That all property owned by said Trustees in their aforesaid corporate capacity, shall not exceed in amount the sum of twenty thousand dollars, and shall be vested with such body corporate in perpetuity, for the use of said Academy, and shall be, and it is hereby declared free from all taxation.

Property.

Exempt from taxes.

Sec. 5. *And be it further enacted*, That twelve of said Board of Trustees shall constitute a quorum, competent to transact all business pertaining to said corporation, and their acts shall be as valid

Quorum.

Proviso.

and binding as if the whole Board were present: *Provided, however,* That a majority of said Board of Trustees shall have power to select three of their own body, as an executive committee, who shall have such power, in transacting all business pertaining to said corporation, as may be conferred upon them by the by laws of said corporation: *Provided,* That all the acts of said executive committee shall be subject to the decision and control of a majority of said Board of Trustees.

Approved, Feb. 5, 1840.

[No. 90.]

## AN ACT

To provide for holding the Courts in the First Judicial Circuit, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the terms of the court of the first judicial circuit, shall hereafter be holden at the times and for the periods hereinafter directed, to wit: In the County of Perry, on the third Monday in March and September, in each year, and may continue in session twelve judicial days; in the County of Monroe, on the second Mondays after the third Mondays in March and September, and may continue in session twelve judicial days; in the County of Clarke, on the fifth Mondays after the third Mondays in March and September, and may continue in session six judicial days; in the County of Washington, on the sixth Mondays after the third Mondays in March and September, and may continue in session six judicial days; in the County of Marengo, on the seventh Mondays after the third Mondays in March and September, and may continue in session till the business is disposed of.

Sec. 2. *And be it further enacted,* That all writs and other processes which have issued, or hereafter may be issued, returnable to said courts, as now provided by law, be, and the same are hereby made returnable to said Courts, to be holden at the times designated in this act; any law or laws to the contrary notwithstanding.

Sec. 3. *And be it further enacted,* That the County of Butler, be, and the same is hereby annexed to, and made a part of, the second judicial circuit, in this State; and hereafter the circuit courts for said Butler County, shall be holden on the second Mondays of March and September in each year, and continue in session six judicial days each term; unless the business is sooner disposed of.

Sec. 4. *And be it further enacted,* That all acts and parts of acts contravening the provisions of this act, be, and same are hereby repealed.

Approved, Feb. 5, 1840,

[No. 91.]

## AN ACT

To alter and amend the acts therein named, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be elected, by the present General Assembly, as is now prescribed by law, five persons, as a Board of Commissioners, for the navigation of the Tombeckbee river; and that so

Courts—in  
Perry.

Monroe.

Clarke.

Washington.

Marengo.

Process re-  
turnable.Butler annex-  
ed to 2d Cir-  
cuit.

Repeal.

Commission-  
ers elected.



much of an act, approved, February 2d, 1839, as requires the Governor to appoint two additional commissioners, be, and the same is hereby repealed.

Sec. 2. *And be it further enacted*, That the said five commissioners, shall be governed in all their duties and transactions, by the provisions of an act, approved, the 20th December, 1837, as also, by the provisions of an act, approved, the 2d February, 1839. Duties.

Sec. 3. *And be it further enacted*, That the said five commissioners, elected as above, are hereby authorized and required, diligently to investigate into the claims of John M. Cooper, late contractor at McGrew's Shoals, on the Tombeckbee river, for additional pay for work done on said river; giving said Cooper time and notice sufficient to enable him to produce any evidence of the justness of his claim; and for the purpose of enabling said commissioners to investigate said claim fully, and fairly, they shall have full power and authority to subpoena witnesses, to take their testimony under oath, or give such weight to documents, and oral statements, under oath as they may think proper; and should said commissioners find any thing in equity and justice, due said John M. Cooper, they shall pay to him whatever sum or sums they may think due; or they may restore to him his contract, upon such terms as will be equitable and just, to all the parties concerned. To investigate certain claims.

Sec. 4. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed. Repeal

Approved, Jan. 31, 1840.

[No. 92.]

### AN ACT

To incorporate the Garden Academy, in the County of Pickens.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an Academy be, and the same is hereby incorporated in the county of Pickens, and that William P. Gillespie, Parks Ball, Amos Albritain, Stephen Stone, and William R. Stansel, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of Trustees of the Garden Academy, Name and style. and as such shall be capable and liable in law or equity, to sue or be sued, to plead or be impleaded; and shall be authorized to make all such by-laws and regulations as shall be fit for the government and management of said Academy: *Provided*, such by-laws shall not Proviso. be repugnant to the laws and constitution of this State, and the constitution of the United States, and for that purpose have and use a common seal, appoint such officers as they think proper, and remove the same for improper conduct or neglect of duty.

Sec. 2. *And be it further enacted*, That said Trustees or body corporate shall be privileged to purchase, accept of and be invested with all manner of property, either real, or personal, or mixed, to them to May hold property. have and to hold, and their successors in office, the same for the pro-

per use and benefit of said Academy: *Provided*, the whole value of said property shall never exceed the sum of ten thousand dollars.

Vacancies.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, either by death, resignation, or refusal to act, of any of the Trustees of said Academy, the survivors, or residue, provided they be a majority of the whole, shall fill such vacancy in such manner as shall be pointed out by the by-laws and regulations of said corporation, and that a majority of said board of Trustees, shall be competent to transact all business pertaining to said Academy and their acts shall be binding and valid.

Exempt from taxation.

Sec. 4. *And be it further enacted*, That all property owned by said Trustees in their corporate capacity, shall be exempt and free from taxation.

Approved, Feb. 5, 1840.

[No. 93.]

#### AN ACT

To incorporate the Montgomery Male and Female Academy.

Name and style.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That A. B. McWhorter, Charles L. Gilmer, John Powell, Francis Bugbee, John Whiting J. J. Hutchinson, B. W. Bell, Neil Blue, and their successors in office, be, and they are hereby declared a body politic and corporate, under the name and style of the Trustees of the Montgomery Male and Female Academy; and that the said corporation, by their style aforesaid, shall have succession in office and that they may have and use a common seal, and alter or amend the same as often as they may deem necessary or expedient.

May hold property.

Sec. 2. *And be it further enacted*, That the said corporation shall be able and capable in law to purchase, have, hold, possess, enjoy and retain to itself in perpetuity, or for any term of years any estate, real or personal, of what kind or nature soever, and to sell, alien or dispose of the same as they think proper, sue and be sued, plead and be impleaded, and be answered unto in any court of law or equity in this State, and make such rules and regulations, not repugnant to the constitution and laws of this State and of the United States, as they may deem expedient.

Vacancies, how filled.

Sec. 3. *And be it further enacted*, That the said Trustees shall have power to fill vacancies either by death, resignation, or other wise, that may occur in said institution. Approved, Feb. 5, 1840.

[No. 94.]

#### AN ACT

To incorporate Roanoke Academy, in the County of Randolph.

Body corporate.

Name and style.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That James Hawthorn, Francis Perryman, John Lamb, Francis Chiles, and Robert Pool, and their successors in office, shall be, and are hereby declared and created a body corporate and politic, by the name of the Trustees of the Roanoke Academy; and by that name shall be liable to sue and be sued, plead and be impleaded, and shall

have power to borrow money, receive donations, and bequests, purchase and sell, and have and hold real estate, and other property, shall be able to make by-laws and regulations, for the government of said Academy: *Provided*, they are not repugnant to the laws or constitution of this State. Proviso.

Sec. 2. *And be it further enacted*, That whenever any vacancy shall occur in the Board of Trustees of the said Academy, the survivor or survivors shall be able and have power to fill such vacancies agreeable to the by-laws of the said incorporation. Vacancies. Approved, Feb. 5, 1840.

[No. 95.]

### AN ACT

To incorporate the Town of Mount Jefferson, in the County of Chambers.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the corporate limits of the town of Mount Jefferson, in the county of Chambers, shall extend a half mile each way from the centre or public well of said town, and be designated and know by the name of the town of Mount Jefferson. Incorporation

Sec. 2. *And be it further enacted*, That on the first Monday in March next, and annually thereafter, between the hours of ten o'clock A. M. and four o'clock P. M. an election, by ballot, shall be held for five Councillors, at some convenient public place in said town, and all free white male persons of the age of twenty years and upwards, who shall be land or householders, within the same, or shall have resided therein three months, next preceding such election, shall be entitled to vote for said Councillors; and when the election shall be closed, the managers thereof shall proclaim the result, and give notice to the persons elected, who shall, on the following day, or some day soon thereafter, meet at some convenient place in said town, and elect, by ballot, from their own body, an Intendant, whose duty it shall be to preside and preserve order at all meetings of the Council, and the person so elected shall continue in office until their successors are duly elected. Elections:  
when held.

Sec. 3. *And be it further enacted*, That the first election shall be held and conducted by John Fletcher, Moses Wheat, Sen. Charles H. Lee, James Anderson, and William Measles, or any three of them, who shall give ten days notice of the time and place of holding said election, by putting up a notice in three or more public places in said town; and all subsequent elections shall be managed by such persons, not exceeding three in number, as the Intendant and Council shall annually appoint, who shall give like notice of the time and place of holding the same; and the Intendant and Council, respectively, shall, before entering on the duties of his or their office, take the following oath, before some Justice of the Peace, of Chambers county, to wit: I ——— do solemnly swear, that I will equally and impartially perform all the duties required of me by the act, incorporating the town of Mount Jefferson, so help me God. First election  
by whom  
held:  
  
Oath of office.

Sec. 4. *And be it further enacted*, That the Intendant and Council are hereby declared to be a body corporate, by the name of the

Name and style.	Town of Mount Jefferson; and by that name, they and their successors, shall be capable of suing and being sued, pleading and being impleaded in all manner of suits, either in law or equity, to have a common seal, and the same to alter at pleasure, and may purchase,
May hold property.	have, hold, possess, receive, enjoy, and retain, in perpetuity, or for any term of years, any estate, real, or personal, not exceeding in value, of five thousand dollars, and may sell or lease the same.
Vacancies.	Sec. 5. <i>And be it further enacted</i> , That if the Intendant die, resign, be removed from office, or absent, the Council shall fill such vacancy by an appointment <i>pro tempore</i> , or otherwise; and vacancies in the Council shall be filled by the Intendant and remaining Councilors, a majority of whom shall constitute a quorum to transact business.
Taxes.	Sec. 6. <i>And be it further enacted</i> , That the Council shall have power to pass all such orders, by-laws, and ordinances, respecting the streets, markets, buildings, pleasure carriages, wagons, carts, drays, and police of said town, that shall be necessary for the security and welfare of the inhabitants thereof; and for preserving health, peace, order and good government within the same, and to assess a tax on the inhabitants thereof, not to exceed the county tax, which is paid for property of the same kind; they shall have power to prevent and remove nuisances, to appoint patrols, and define their duties, affix fines for offences against their by-laws and ordinances, not exceeding twenty-five dollars for every offence, to be recovered before the Intendant or any member of the Council, for the use and benefit of the town; to assess a tax on licenses to retailers of spirituous liquors, not exceeding ten dollars, in any one year; they shall have power to appoint a Clerk, Treasurer, Assessor, Collector of taxes, and a Constable for said town, to affix the salaries and fees of such, respectively, and define their duties.
Officers.	Sec. 7. <i>And be it further enacted</i> , That the Intendant shall be vested with all the powers and authority that Justices of the Peace are vested with, by the laws of this State, and may and shall exercise the same within the limits of said town, subject nevertheless to appeals to the Circuit or County Courts, as in cases of appeals from the Justices of the Peace.
Powers.	Sec. 8. <i>And be it further enacted</i> , That the Intendant and Council shall have no power to assess a tax on property belonging to any seminary of learning, church, or religious society; they shall have no power to make by-laws or ordinances repugnant to the laws of this State; and this act and all the by-laws or ordinances, shall be subject to revision or repeal by the General Assembly.
Seminaries, exempt from taxes.	Sec. 9. <i>And be it further enacted</i> , That if the Intendant or any member of the Council shall be guilty of any wilful neglect of duty, or malpractice in office, he shall forfeit and pay a sum not exceeding two hundred dollars, for every such wilful neglect or malpractice, to be recovered by any person suing for the same, in any court having cognizance thereof, and paid into the treasury of said town.
Forfeit for neglect of duty.	Sec. 10. <i>And be it further enacted</i> , That if an election shall not be held according to this act, the same may be held on the first
Election.	

Monday in April; and the Intendant and Council then elected, shall continue in office until the next annual election.

Sec. 11. *And be it further enacted*, That the Intendant and Council of the said town of Mount Jefferson, shall appoint an overseer or overseers of the streets of said town, and shall require and regulate the working on the same, not exceeding ten days in each year; and may exempt, at their discretion, from working on the same, all persons they may think proper; and all persons living within the corporation, liable by law to work on roads and highways, by paying an additional poll tax, not exceeding five dollars per head on each one so liable to work, for the use of said town, shall be exempt from working on the same.

Overseers to  
be appointed

Approved, Feb. 5, 1840.

[No. 96.]

### AN ACT

For the better regulation of the State Printing, and altering the mode of paying for the same.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the 16th day of January, 1840, the Printing for the General Assembly and Executive offices shall be executed in the following manner, viz: All bills, for either House, shall be printed on foolscap paper, on small pica type. Rule or table work in royal octavo size, where it can be brought into that size in any type not smaller than brevier, and where it cannot, in such form as to fold conveniently into the volume or pamphlet. All other printing with a small pica type, in pages of the same size as those of the journals of the last year. And the following prices shall be allowed and paid for the above described work: For the composition of every page of bills, two dollars and fifty cents; of every octavo page of small pica, plain work, one dollar and seventy five-cents; of every page of small pica, rule work, three dollars and fifty cents; of every page of brevier rule work, five dollars and fifty cents; and for a larger form of brevier work in proportion. For the press work of bills, including paper, folding and stitching, for thirty-five copies, one dollar and seventy-five cents per page; for one hundred copies, two dollars and seventy-five cents per page; for the press work of tables other than those in the regular octavo form, for one hundred copies, including as above, three dollars per form. The laws shall be printed as heretofore, with small pica type and minion side notes, for the composition of which the printer shall receive two dollars per page. The journals shall be printed as heretofore, in royal octavo pages, in small pica type, for the composition of which the printer shall receive one dollar and seventy five cents per page. For the press work of the laws, including paper, folding and stitching, of three thousand copies, four dollars per page; for the press work of the House journal, of fifteen hundred copies, two dollars and fifty cents per page; for the Senate journal, of seven hundred and fifty copies, one dollar and fifty cents per page

Mode of exe-  
cuting Public  
Printing.

For all other press work in the octavo form, of one hundred copies, including as above, thirty-seven and a half cents per page, and for a larger or smaller number in proportion. All blanks for the Executive offices to be charged and paid for the same as bills, with the exception of Land Patents and other parchments, for which the printer shall receive ten cents per copy, the State finding the parchment.

Election.

Sec. 2. *And be further enacted*, That as soon as this act shall have been approved by the Governor, the two houses will proceed to elect a printer, who shall serve for one year from the 16th of January, 1840, and who shall give bond, with sureties, in such sum as the Governor may deem necessary, for the prompt, accurate and neat execution of the work.

Printer to procure certificate, &amp;c.

Sec. 3. *And be it further enacted*, That for all work done by the order of the House or Senate, or either of the Executive officers, the printer shall procure a certificate of such order from the Clerk of the House, or Secretary of the Senate, or from the officer of the Executive department, ordering such work, upon presentation of which to the Comptroller, with a copy of the work ordered, he, (the Comptroller) shall issue his warrant upon the Treasurer for the payment of the same, according to the mode prescribed in this act; and upon the delivery to the Secretary of State of the laws and journals, or either of them, the Secretary of State shall give his certificate or receipt for the same, upon which the Comptroller shall issue his warrant as before directed: *Provided*, That the laws are so delivered within fifty and the journals within eighty days after the adjournment of the General Assembly.

Secretary of State's duty.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Secretary of State to furnish the printer with a fair copy of the laws within ten days, and of the journals within twenty-five days after the adjournment of the General Assembly; for which he shall receive the same compensation as he has heretofore received.

Secretary to employ distributor.

Sec. 5. *And be it further enacted*, That it shall be the duty of the Secretary of the State to employ competent and responsible persons, who shall give bond with such security, and in such sum, as the Secretary may deem necessary, to distribute the laws and journals to the different counties in the State, within thirty days after they have been delivered to the Secretary, by the Printer; and no such distributor shall receive his pay for the same until he presents the Secretary of State with the receipt of the county clerk, (or in his absence, of the judge of the county court, or clerk of the circuit court,) for the requisite number of laws and journals, of each county to which he may have agreed to distribute the same.

Repeal.

Sec. 6. *And be it further enacted*, That all other laws or parts of laws in relation to the State printing, be, and the same are hereby repealed.

Sec. 7. *And be it further enacted*, That this act shall commence and be in force from and after the 16th day of January, 1840.

Approved, Feb. 4th, 1840.

[No. 97]

## AN ACT

To Incorporate the Alabama Manufacturing Company..

Whereas, Henry Talmage, Platt Adams, Louis Benton, and James M. Wilson, together with sundry other individuals, have associated for the purpose of erecting mills and manufactories, for the manufacture of silk and cotton goods, in the State of Alabama; and have, with the view of furthering this laudable design, and to divide the hazards attendant thereon, set on foot a subscription and actually subscribed considerable sums of money thereto, upon condition, that the legislature shall deem it expedient to grant them support and encouragement, by giving them and such others as shall hereafter subscribe and join this association, a suitable charter of incorporation, as doth appear by their several petitions to the legislature; to the end therefore, that the said Henry Talmage, Platt Adams, Louis Benton, and James M. Wilson, and their present and future associates may be encouraged to proceed in this laudable undertaking—

Preamble

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Henry Talmage, Platt Adams, Louis Benton, and James M. Wilson, and their present and future associates, their successors and assigns, be, and they are hereby created a body corporate and politic, by the name of the Alabama Manufacturing Company; and by that name they, and their successors, shall and may have perpetual succession, and shall be persons in law, capable of suing and being sued, pleading and being impleaded, answering and being answered, in all courts and places whatever; and in all manner of actions, suits, and complaints, matters and causes whatsoever; and that they and their successors may have a common seal, and make, change, and alter the same at their pleasure; and also, that they and their successors by the same name and style, shall be in law capable of purchasing, holding, and conveying any estate, real and personal, for the use of the said association: *Provided,* That the real estate so to be holden shall be only such as shall be necessary to promote and attain the object of this association.

Body politic.

Name and style.

Proviso.

Sec. 2. *And be it further enacted,* That the capital stock of the said association shall not exceed one million of dollars; and that a share in the said stock shall be one hundred dollars; and that subscriptions to the said capital stock shall be opened and kept open, under the direction of three commissioners, viz: Dabney Palmer, James G. Elliott, and Oliver P. Haswell, until the whole number of shares subscribed, with those already subscribed, shall amount to three hundred thousand dollars.

Capital stock.

Subscriptions to be opened.

Sec. 3. *And be it further enacted,* That the mills, machinery, and other property of said association, shall be exempted from taxation for the term of ten years, from the passage of this act.

Property free from taxation

Sec. 4. *And be it further enacted,* That the stock, property and concerns of the said association shall be conducted and managed by seven trustees, who shall be stockholders: which trustees shall hold their offices for one year from the first Wednesday in January of every year, and until others are appointed; and the said trustees

Managed by Trustees.

Election.

shall be elected by the stockholders or their representatives, every year, at such time and place as a majority of the trustees, for the time being, may appoint ; and public notice shall be given by the trustees, of the time and place of holding such elections, by advertisement in two of the newspapers published in the city of Mobile, thirty days previous thereto; and all elections shall be by ballot, each share of stock being entitled to one vote ; and the seven persons who shall have the greatest number of votes, shall be trustees ; and the said trustees, as soon as may be after their election, shall proceed to ballot for a president, and the person having the greatest number of votes, shall be elected ; and if any vacancy shall occur by reason of the death, or removal of any trustee, such vacancy shall be filled for the remainder of the year, by such person or persons as a majority of the trustees, for the time being, may appoint.

Officers.

Sec. 5. *And be it further enacted*, That the trustees shall have power to appoint the time and place of all meetings for the despatch of business, and to appoint such officers, agents, and servants, as they may deem necessary, for carrying into effect the objects of this association, and to establish rules and regulations concerning the conduct and government of such officers, agents, and servants.

Surplus revenue.

Sec. 6. *And be it further enacted*, That it shall and may be lawful for the said company to employ all such surplus capital as may belong or accrue to the said company, in the purchase of public or other stock, or any other moneyed transactions or operations, not inconsistent with the constitution and laws of this State, or of the United States.

Trustees to collect from Stockholders.

Sec. 7. *And be it further enacted*, That it may and shall be lawful for the trustees to call for and demand from the stockholders representing all such sums of money by them subscribed, or to be subscribed, as they shall see fit, at such times and in such proportions as they may appoint, under pain of the forfeiture of their shares and of all previous payments thereupon, to the said president and trustees.

Protection.

Sec. 8. *And be it further enacted*, That for the protection of said association, in their buildings, dams, and machinery, that if any person or persons shall wilfully, and maliciously, do or cause to be done, any damage or injury to the buildings, dams, machinery, or other property of said association, such person or persons so offending, shall forfeit and pay treble the amount of damage or injury sustained by reason of such offence ; to be recovered by said association with costs of suit, by action of debt, in any court of competent jurisdiction of this State ; which action shall, in every instance, be considered as transitory in its nature, and may be triable in any county in this State.

Penalty.

Sec. 9. *And be it further enacted*, That nothing contained in this act, shall be so construed, as to confer on said corporation banking privileges.

Approved, Feb. 4, 1840.



[No. 98.]

## AN ACT

To authorize the Alabama Life Insurance and Trust Company of Mobile, to reduce and consolidate the Capital Stock of the same.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That <sup>To reduce</sup> the said corporation is hereby authorized to reduce the capital stock <sup>capital stock.</sup> of the same, to such sum not less than two hundred thousand dollars, as may be agreed on by the board of trustees: *Provided,* That the <sup>Provided.</sup> consent in writing, of the owner or holders of a majority of the shares is first obtained.

Sec. 2. *And be it further enacted,* That the board of trustees is hereby authorized to permit any holder of shares of the capital stock of said corporation, who has not paid the full amount of the shares <sup>To consoli-</sup> held by him, to consolidate the same, and receive a certificate for the <sup>date.</sup> number of shares paid or deemed in full, after such consolidation.

Sec. 3. *And be it further enacted,* That as soon as the said corporation, shall reduce their capital stock, it shall be the duty of the president and secretary of the same, to notify the Governor and <sup>To notify</sup> Comptroller, by certificate, under the seal of the said company, of <sup>Governor &</sup> the amount by which the capital stock has been reduced, and the bonus liable to be paid by the said corporation, shall be reduced in <sup>Bonus to be</sup> the same proportion as the capital stock: *Provided,* That if the <sup>reduced.</sup> same is not reduced and certified within one year from the passage of this act, this section shall have no effect.

Approved, Feb. 5, 1840.

[No. 99.]

## AN ACT

To Incorporate the Midway Academy.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and immediately after the passage of this act, the Academy at Midway, in the county of Barbour, on section fifteen, township thirteen, range twenty-five, shall be known and called by the name of the Midway Academy; and that Arthur Stripling, Lauchlin Camron, William M. McMurry, Daniel Calloway, Daniel McMillen, and Samuel Feagin, and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Midway Academy; and as such shall be capable, and liable in law, to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations, as shall be necessary for the government of said Academy: *Provided,* Such <sup>Body politic.</sup> by-laws and regulations are not repugnant to the constitution and laws of this State, and for that purpose may have and use a common seal, appoint such officers as they may think proper, and remove <sup>Name and style.</sup> the same from office for improper conduct or neglect of duty. <sup>Officers.</sup>

Sec. 2. *And be it further enacted,* That the trustees aforesaid, shall be capable of accepting and being invested with all manner of <sup>May hold</sup> property, real and personal, all donations, gifts, privileges, and <sup>property.</sup> immunities, whatever; which may belong to said institution, or which may be hereafter conveyed or transferred to them, or their successors

in office, to have and to hold the same, for the proper benefit and use of said Academy.

Vacancies.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by death, resignation, or otherwise, of any of the trustees of the Midway Academy, the survivors or the remaining trustees, shall fill the same, in such manner as shall be pointed out by the by-laws and regulations of the said incorporation.

Exempt from taxation.

Sec. 4. *And be it further enacted*, That all property owned by the trustees, not exceeding in value, twenty thousand dollars, and for the benefit of said Academy, shall be free from taxation.

Character of institution.

Sec. 5. *And be it further enacted*, That the said institution shall be purely literary, and the peculiar tenets of no religious persuasion shall be taught or inculcated in said institution.

Moneys recoverable.

Sec. 6. *And be it further enacted*, That all moneys which may have been subscribed by individuals, for the erection of said Midway Academy, shall inure to, and be recoverable by the trustees aforesaid, in their corporate capacity, in the same manner as if such subscription had been originally made to them in that character ; and the said trustees shall be held liable for all the contracts which may have been made for the erection of said Academy.

Trustees liable.

Approved, Feb. 5, 1840.

[No. 100.]

#### AN ACT

To Incorporate the Tuskegee Male and Female Academy.

Body politic.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an Academy be, and the same is hereby incorporated in the county of Macon, to be styled The Tuskegee Male and Female Academy ; and that Peter H. Harris, Charles G. Rush, Abraham H. Chappell, Westly F. Handnatt, John M. Gan, Balt. Peterson, and Samson Lavier and their successors in office, be, and they are hereby declared to be a body politic and corporate, by the name and style of the Tuskegee Male and Female Academy ; and as such, shall be capable and liable in law or equity, to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations as shall be necessary for the government of the said Academy : *Provided*, Such by-laws are not repugnant to the laws and constitution of this State and of the United States, and for that purpose may have and use a common seal, and appoint such officers as they may think proper, and remove the same for improper conduct or neglect of duty.

Name and style.

Proviso.

May hold property.

Sec. 2. *And be it further enacted*, That the said trustees or body corporate, shall be privileged to accept of, and be invested with all manner of property, either real or personal, or mixed ; also, all donations, gifts, grants, privileges, and immunities, whatsoever, which may be made or granted to said institution, or which may be hereafter conveyed or transferred to them, or their successors in office.

Vacancies.

Sec. 3. *And be it further enacted*, That when any vacancy may occur, by the death, resignation or otherwise, of any of the trustees of said Academy, the survivors or residue of said trustees shall fill

the same in such manner as shall be pointed out by the by-laws and regulations of said incorporation.

Sec. 4. *And be it further enacted*, That all property owned by said trustees in their aforesaid corporate capacity, shall be vested with such body corporate, in perpetuity for the use of said Academy, and shall be, and is hereby declared free from all taxation. Property free from taxation

Approved, Feb. 5, 1840.

[No. 101.]

### AN ACT

To amend an act to Incorporate the Coosa Bridge Company, passed 1836.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That said Coosa Bridge Company, be, and they are hereby allowed until the first day of April, in the year one thousand eight hundred and forty-one, to commence the building of said Bridge, authorized to be built by the act to which this is an amendment. Time-extended.

Sec. 2. *And be it further enacted*, That so much of said act as requires said Bridge to be built on the land of Howel Rose, and on fraction No. five, township eighteen, and range eighteen, be, and the same is hereby repealed. Repeal.

Sec. 3. *And be it further enacted*, That said Coosa Bridge Company may build said Bridge at any point on the Coosa river, less than three miles above the Wetumpka Bridge: *Provided*, A majority of the Directors of the said Wetumpka Bridge Company, shall consent that said Bridge hereby authorized to be built, may be built at any point within three miles of said Wetumpka Bridge. To build, &c. Proviso.

Sec. 4. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act, are hereby repealed.

Approved, Feb. 5, 1840.

[No. 102.]

### AN ACT

For the payment of the Directors of the Bank of the State of Alabama and its several Branches, for the year 1839, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the following sums may be, and they are hereby appropriated, from the funds of the Bank of the State of Alabama and its several Branches, for the payment of the persons mentioned, for their services as Directors of said Bank and Branches during the past year, to wit: To James Hogan, the sum of five hundred dollars, for one hundred days services as Director; to S. G. Frierson, the sum of four hundred and seventy dollars, for ninety-four days of like services; to Major Cook, the sum of five hundred dollars, for one hundred days of like services; to James Guild, the sum of five hundred dollars, for one hundred days of like services; to Robert Caruthers, the sum of four hundred and sixty-five dollars, for ninety-three days of like services; to James C. Wilson, the sum of one hundred and eighty-five dollars, for thirty-seven days services, and to Joel White, the sum of three hundred and fifteen dollars, for sixty-three days services; all in the Bank of the State of Alabama, to be paid out of Appropriation to the Directors of the State Bank and Branches

Appropriation to Bank Directors.

the funds of said Bank, by the Cashier thereof, who shall take from the individuals mentioned, the proper vouchers for the sums paid them respectively. To James H. Blain, the sum of four hundred and eighty-five dollars, for ninety-seven days services; to Jesse W. Garth, the sum of four hundred and sixty-five dollars, for ninety-three days services; to Isaac N. Owen, the sum of seventy dollars, for fourteen days services; to Thomas Lile, the sum of four hundred and ninety-five dollars, for ninety-nine days services; to George W. Carroll, the sum of two hundred and seventy dollars, for fifty-four days services; to James C. Malone, the sum of four hundred and thirty-five dollars, for eighty-seven days services; to James Fennell, the sum of four hundred and five dollars, for eighty-one days services; all as Directors of the Branch of the Bank of the State of Alabama, at Decatur, to be paid by the Cashier of the said Branch, out of its funds, he taking proper vouchers therefor. To Percy Walker, the sum of four hundred and ninety-seven dollars, for seventy-one days services; to J. M. English, the sum of seven hundred and twenty-eight dollars, for one hundred and four days services; to L. Mauldin, the sum of nine hundred and thirty-eight dollars, for one hundred and thirty-four days services; to R. Brodnax, the sum of seven hundred and twenty-eight dollars, for one hundred and four days services; to Martin A. Lea, the sum of two hundred and seventy-two dollars, for thirty-eighth and six-sevenths days services; to Dennis D. Kane, the sum of nine hundred and ninety-four dollars, for one hundred and forty-two days services; to J. Ela, the sum of one hundred and eighty-two dollars, for twenty-six days services; and to David White, the sum of eight hundred and eighty-two dollars, for one hundred and twenty-six days services; all as Directors of the Branch of the Bank of the State of Alabama, at Mobile, to be paid out of the funds of said Branch Bank, by the Cashier thereof, who shall take the proper vouchers therefor, from the persons so paid. To Thomas Brandon the sum of three hundred and fifty-five dollars, for seventy-one days services; to S. S. Ewing, the sum of three hundred dollars for sixty days services; to Benjamin Pattison, the sum of two hundred and ninety dollars, for fifty-eight days services; to E. L. Andrews, the sum of two hundred dollars, for forty days services; to William Sanders, the sum of one hundred and ninety dollars, for thirty eight days services; to Eldred W. Williams, the sum of one hundred and twenty-five dollars, for twenty-five days services; and to Daniel M. Bradford, the sum of eighty-five dollars, for seventeen days services; all as Directors of the Branch of the Bank of the State of Alabama, at Huntsville, to be paid out of the funds of the said Branch Bank, and proper vouchers to be taken therefor by the Cashier of said Branch Bank. To Bushrod W. Bell, the sum of sixty-five dollars, for thirteen days services; to T. W. Brevard, the sum of two hundred and seventy-five dollars, for fifty-five days services; to Bolling Hall, the sum of two hundred and seventy dollars, for fifty-four days services; to Paul H. Lewis, the sum of eighty-five dollars, for seventeen days services; to William McGill, the sum of ten dollars, for two days services; to James M.

Newman, the sum of two hundred and sixty dollars, for fifty-two days services; to Dixon Hall, jr. the sum of fifteen dollars, for three days services; to Silas Ames, the sum of one hundred and forty-five dollars for twenty-nine days services; to Charles S. Lucas, the sum of eighty-five dollars, for seventeen days services; to L. D. Hallenquest, the sum of thirty five dollars, for seven days services; and to H. W. McMorris, the sum of twenty dollars, for four days services; all as Directors of the Branch of the Bank of the State of Alabama, at Montgomery, to be paid out of the funds of said Branch Bank by the Cashier thereof, who shall take proper vouchers from the persons so paid.

Appropriations.

Sec. 2. *And be it further enacted,* That the Comptroller of Public Accounts shall issue his warrant on the State Treasurer in favor of the following persons, for the sums mentioned, payable out of any money in the Treasury, not otherwise appropriated: for the payment of expenses incurred in going to and returning from Decatur, as members of the committee appointed to investigate the Branch of the Bank of the State of Alabama, at Decatur, to wit: To William Smith, eighty-five dollars; to D. Hall, jr. eighty-five dollars; to R. F. Houston, eighty-five dollars; to D. Dent, eighty-five dollars; to Thomas Riddle, eighty-five dollars; and to Benjamin Hudson, eighty-five dollars.

To Joint Examining Committee.

Approved, February 4, 1840.

# PRIVATE AND LOCAL ACTS.

1840. [No. 1.]

## AN ACT

To change the time of holding the County Court, in Sumter County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the county court for Sumter county, in said State, commence and be holden hereafter, on and from the second Monday in February and July in each year, and that all process be made returnable accordingly.

2d Monday in  
February and  
July.

Process when  
returnable.

Sec. 2. *And be it further enacted,* That all writs and other process, returnable into said court, on the second Monday in January next, shall be held to be returnable and be returned into said court, on the second Monday of February next; and shall be subject to all such proceedings thereon, as if returnable in terms, on said last named day and none other; and that all parties, in any and all suits, depending in said court, and witnesses, who have been summoned to attend in said court, on the second Monday of January next, be held and bound to appear, and answer, and prosecute, and give testimony, at said next term of said court, herein provided.

Approved, Dec. 17, 1839.

[No. 2.]

## AN ACT

To alter and extend the time for the collection of the County School and Road Tax, in the County of Mobile, for the year 1839.

Preamble.

Whereas, by reason of the prevalence of the late epidemic in the City of Mobile, and the absence of a large portion of the inhabitants of said city, the Sheriff of the county of Mobile has been unable to collect the taxes thereof for the present year; therefore,

Time of col-  
lecting ex-  
tended.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Sheriff of Mobile county be allowed until the first Monday in February next, to pay into the Treasury of said county, all moneys that may be due, or coming to the same, by reason of said taxes.

Sheriff to pro-  
ceed, &c.

Sec. 2. *And be it further enacted,* That it shall be lawful for the Sheriff of said county to proceed at any time before said first Monday of February next, to make distress and sale for taxes for the present year in said county, under the same rules and regulations that are now provided by law for the collection of taxes.

Approved, Dec. 7, 1839.

[No. 3.]

## AN ACT

To amend the law for the Collection of Taxes, in the County of Barbour.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That on the first Monday in April, in every year, it shall be the duty of the Judge of the County Court and the Commissioners of Roads and Revenue of Barbour county, to appoint one of the justices of the peace in every beat in said county, or some other proper person, who is hereby authorized to administer all necessary oaths, to assess all property subject to taxation, in their respective beats, according to the laws now in force. Assessors to be appointed.

Sec. 2. *And be it further enacted,* That it shall be the duty of the Judge of the County Court, should the commissioners fail to attend at the court house of said county, on the first Monday of April, in every year, to proceed to make the aforesaid appointments, and if the judge should not attend, it shall be the duty of the commissioners to make said appointment. On failing to appoint, &c.

Sec. 3. *And be it further enacted,* That it shall be the duty of the persons so appointed, to assess all the property, liable to taxation within the beat for which he is appointed, with the names of all persons owning such property, or who are liable to taxation under the existing laws. Duties.

Sec. 4. *And be it further enacted,* That the assessors of taxes so appointed shall, on or before the second Monday in June, in every year, make out a list of all taxable property in a book for that purpose, together with the names of all persons subject to taxation, in alphabetical order, with the amount due from each person, and return the same duly certified to the Clerk of the County Court of said County, on or before the said second Monday in June. To make out a list.

Sec. 5. *And be it further enacted,* That the persons so appointed, before they enter on the duties of their office, shall give bond and security in the sum of five hundred dollars, conditioned faithfully to discharge the duties of their office, and shall be sworn to discharge the same to the best of their abilities. To give bond.

Sec. 6. *And be it further enacted,* That should a vacancy occur by death, resignation, refusal to act, or other cause, the judge of the county court alone, in vacation, or jointly with the commissioners of roads and revenues, may supply said vacancy. Vacancies.

Sec. 7. *And be it further enacted,* That the said assessors shall receive for their services respectively, five per cent. on the amount assessed, payable out of the County Treasury, upon the certificate of the clerk, that the said assessor has made due return of his book of assessments; which certificate shall express the amount of such assessments. Compensation.

Sec. 8. *And be it further enacted,* That the assessors shall be regulated in making their assessments as now required by law, and if any person shall fail to give in their taxable property, he shall be liable to double taxes, to be entered on the book of assessments, estimated to the best of the knowledge of the assessors, and collected accordingly as other taxes; and all persons shall be held bound to ren- Persons failing to give in tax, &c.

der in their taxable property by the first Monday in June, of each year.

Clerk's duty.

Sec. 9. *And be it further enacted*, That it shall be the duty of the Clerk of the County Court of said County, by the first Monday in July, in every year, to consolidate the returns of the assessors, in a book to be prepared by him for the purpose, and make two copies thereof, one of which he shall hand to the County Treasurer, and the other he shall furnish the tax collector and to take his receipt for the same, which he shall file in his office; and for these services shall have a fee of ten dollars, to be paid out of the County Treasury, on exhibiting both receipts to the Treasurer.

Collector's duty.

Sec. 10. *And be it further enacted*, That the tax collector of said county, shall proceed to collect the taxes, as assessed, and make due returns of all moneys collected, by the first Monday in January, in each year, and on a settlement with the County Treasurer, the said assessor or collector shall not be allowed for any insolvents, unless first allowed and certified by the Judge of the County Court, which he shall do, if at all, by the first Monday of January in each year.

Assessor's fees.

Sec. 11. *And be it further enacted*, That the tax collector shall receive eight per cent. upon the amount actually collected and paid over by him.

Penalty.

Sec. 12. *And be it further enacted*, That should the Clerk of the County Court, or any assessor fail to perform any of the duties herein required of them, they shall forfeit the sum of one hundred dollars, to be recovered on motion in the Circuit Court of said County, or County Court, in the name of the Treasurer, for the use of the county, upon five days notice, to such clerk or assessor, of such motion.

Election.

Sec. 13. *And be it further enacted*, That there shall be elected, at every general election, a tax collector, as now required by law, for said county.

Books of assessment.

Sec. 14. *And be it further enacted*, That the books of assessments herein required to be made out, shall have the force and effect of executions and collected accordingly.

Approved, Jan. 2, 1840.

[No. 4.]

## AN ACT

To authorize the Judge of the County Court and Commissioners of Roads and Revenue to levy a Special Tax for the building of a Jail, in the County of Clarke.

To levy a tax.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Judge of the County Court and Commissioners of Roads and Revenue of Clarke County, be, and they are hereby authorized and required to levy a special tax, on said county, for the purpose of building a jail in said county; which fund, when so raised, shall be appropriated to the purpose as aforesaid, under the direction and superintendence of said commissicners, or their successors in office.

Powers as above.

Sec. 2. *And be it further enacted*, That if the fund so raised, in eighteen hundred and forty, should not be sufficient, for the purpose aforesaid, then, and in that case, the said judge and commissioners, or their successors in office, shall from year to year be authorized and required to levy said tax, until a sufficiency is raised to pay for the building of said jail.



Sec. 3. *And be it further enacted*, That the tax collector of said county, shall be entitled to the same compensation for collecting said tax, as is now provided for by law. Tax Collector's fees.

Sec. 4. *And be it further enacted*, That the per diem pay of the Commissioners of Roads and Revenue in Clarke County, be increased to two dollars and fifty cents per day, for each day whilst in attendance, and that they be allowed five cents per mile, in travelling to and returning from the court house. Approved, Jan. 29, 1840. Compensation.

[No. 5.]

## AN ACT

To authorize and require the Judge of the County Court and Commissioners of Roads and Revenue, for the County of St. Clair, to levy a Special Tax.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be lawful for the Judge of the County Court and Commissioners of Roads and Revenue, for the County of St. Clair, or a majority of them, or in the absence of, or non-attendance of the said Commissioners, the Judge of the County Court, and they are hereby required at the first session of the Commissioners' Court of said County, or at any subsequent session of said court, to levy a special tax upon the persons and property of the citizens of St. Clair county, of one hundred per cent. upon the county levy, every year, for five succeeding years, for the purpose of building a jail in said county. To levy special tax.

Sec. 2. *And be it further enacted*, That the aforesaid special tax, shall be collected by the tax collector of St. Clair county, and when collected shall, by him, be paid into the hands of commissioners hereinafter appointed to superintend the building of said jail. How collected.

Sec. 3. *And be it further enacted*, That Alemeth Byers, Littleton Yorborough, William Little, Jesse A. Collins, and John F. Dill, be, and they are hereby appointed commissioners to superintend the building of said jail, and to carry out fully, the provisions of the foregoing act: *Provided, however*, That a majority of them shall, at all times be competent to do business. Commissioners.

Approved, Jan. 23, 1840.

[No. 6.]

## AN ACT

To alter the time of holding the County Courts of certain Counties therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter the County Court of Pike County, shall be holden on the first Thursday after the first Monday in February and August, in each and every year; that the County Court of Barbour County, shall be held on the second Monday in February and August, in each and every year, that the County Court of Henry County, shall be held on the third Monday in February and August, in each and every year: that the County Court of Dale County, shall be held on the first Thursday after the third Monday in February and August, in each and every year. Pike county  
Barbour.  
Henry.  
Dale

Sec. 2. *And be it further enacted*, That all process whatever,

Process when  
returnable.

which is, or shall be made returnable to the present term of any of said courts, shall be returnable at the times pointed out by this act, and the like proceedings shall be had thereon, as if there were no alteration in the times of holding said courts.

Sec. 3. *And be it further enacted*, That this act shall be in force from and after the passage thereof. Approved, Dec. 30, 1839.

[No. 7.]

#### AN ACT

To change the time of holding the Commissioners Court of Roads and Revenue for the County of Perry.

Commissioners  
Court.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, the Commissioners Court of Roads and Revenue for the County of Perry, shall be holden on the first Monday in January, April, July, and October, in each and every year.

Sec. 2. *And be it further enacted*, That all acts and parts of acts contravening the provisions of this act, be, and the same are hereby repealed. Approved, Jan. 2, 1840.

[No. 8.]

#### AN ACT

For levying a Special Tax in the County of Marengo.

To levy spe-  
cial tax.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Judge of the County Court of Marengo County, and the Commissioners of Roads and Revenue of said County, or a majority of them; or in the absence or non-attendance of the said Commissioners the Judge of the County Court, at the first session of the Commissioners court, on the first Monday of February next, or at any subsequent session of said court, shall have power and are hereby authorized and required to levy a special tax in said county, for the purpose of paying William J. Alston, all the money that may be rightfully due to him from the said county, upon or for his salary, as Judge of the County Court of said County of Marengo, for the year 1836.

Sec. 2. *And be it further enacted*, That this act shall take effect from its passage. Approved, Jan. 27, 1840.

[No. 9.]

#### AN ACT

To alter the time of holding the Spring Term of the Circuit Court, in the County of Marengo.

Circuit court.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the next Term of the Circuit Court for the County of Marengo, shall be holden on the third Monday in May, instead of the time now fixed by law; and that all process now issued, returnable to any other time, shall be, and is hereby made returnable to the time above provided. Approved, Jan. 28, 1840.

[No. 10.]

## AN ACT

To change the time of holding the County Court, of the County of Greene.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the May Term of the County Court of the County of Greene, shall be held on the third Monday in May, in each and every year; and that all writs, subpoenas and other process, which is or shall be made returnable to the May Term of said Court, shall be construed as returnable to the third Monday in May, as altered by this act.

Approved, Jan. 28, 1840.

[No. 11.]

## AN ACT

For the relief of Elizabeth Brown.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the name of Elizabeth Brown, of Jefferson county, be, and is hereby changed to the name of Elizabeth Reese.

Approved, Jan. 2, 1840.

[No. 12.]

## AN ACT

To provide for the support of Paupers, in the County of Jefferson.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Judge of the County Court and the Commissioners of Roads and Revenue, for the county of Jefferson, be, and they are hereby authorized, whenever they, or a majority of them, shall deem it necessary, to purchase and receive title to any quantity of land (within ten miles of Elyton) not exceeding one quarter of a section; which title shall be made to the Judge of the County Court of Jefferson county, and his successors in office, and shall vest in, and be the property of Jefferson county. May buy land

Sec. 2. *And be it further enacted,* That said Judge and Commissioners are hereby authorized to contract for the building of all necessary houses for the purposes herein mentioned, and every thing else that is necessary to be done, the expenses of which shall be paid out of the County Treasury of Jefferson county. Build houses.

Sec. 3. *And be it further enacted,* That whenever it shall appear to the Court of Commissioners of Roads and Revenue of Jefferson county, that any person is a subject of public charity and support, he, she, or they, (so soon as there be a poor house in said county) may be ordered, by said court, to be conveyed to the said poor house, to be taken care of and supported, and said Court is authorized to employ some suitable person to superintend and take care of all the poor of said county of Jefferson. Court to appoint superintendant.

Sec. 4. *And be it further enacted,* That it shall be the duty of the Judge of the County Court, and Commissioners of Roads and Revenue, (or a majority of them) to meet at the poor house of their county, at least once in every three months, and examine the situation of the house and furniture, the paupers and their treatment; and the said Court shall, in all cases, have power to dismiss any person from the care To meet at poor house.

and charge of the poor house, at the pleasure of said Court, and to make all such rules and regulations, as to the said Court shall seem necessary and advisable, with due regard to economy and the comfort of the poor.

To appoint  
Overseers.

Sec. 5. *And be it further enacted*, That at the first Court of Commissioners of Roads and Revenue, after a poor house shall have been built in Jefferson county, the said Court shall appoint one person in each Captain's beat, to act as overseer of the poor, whose duty it shall be to report to each term of the Commissioners Court, what person or persons are within his beat, properly the subject of charity and public support, and the said Court shall inquire into the facts of the case of each one reported, and order them to be conveyed to the poor house, or make such other order (if the court should determine against such report) as said Court shall deem proper and expedient; and the said overseers so appointed, shall continue in office one year, and said court shall, at each regular term thereof, fill all vacancies occasioned by death, resignation, removal and expiration of term of service, or otherwise.

Superintendent to  
give bond.

Sec. 6. *And be it further enacted*, That before any person who may be employed by the Commissioners Court of Roads and Revenue, to superintend the poor house in Jefferson county, shall enter upon the discharge of his duty, he shall enter into bond with two or more good securities, payable to the Judge of the County Court of said county, and his successors in office, to be approved of by the said Judge, conditioned for the faithful discharge of his duty; said bond to be in such penalty, as the said court may direct, and shall not be void on the first recovery, but may be sued on as often as the Judge and Commissioners shall be of opinion, that the conditions have been violated; and the Judge and Commissioners shall have power to make such rules and regulations, for the support of the poor at the poor house, as to them may seem to comport with the interest of the county, and the health and comfort of the poor.

Sec. 7. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 2, 1840.

[No. 13.]

#### AN ACT

To authorize the citizens of the Town of Columbiana, in Shelby county, to elect a Constable for said Town.

To elect a  
Constable.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That there shall be an election held by the Sheriff of the above recited county, in the town of Columbiana, in Shelby county, as soon as practicable, by giving ten days notice, as now required by law, for a Constable; who shall be a citizen of the corporate limits of said town, and who shall hold his office until the next general election for Magistrates and Constables, and forever thereafter, shall hold the office as now prescribed by law.

Voters.

Sec. 2. *And be it further enacted*, That the qualified electors of the corporate limits of said town, shall be deemed competent to vote in said election.

Sec. 3. *And be it further enacted*, That the Constable so elected, shall be required to take the same oath, be required to give like bond and security as other Constables are now required by law to do, and be vested with like powers, receive like fees, be liable to the same penalties, and continue in office after the next general election for Justices of the Peace and Constables the same length of time that other Constables do in this State.

Constable to take oath and give bond.

Term of service.

Sec. 4. *And be it further enacted*, That all laws and parts of laws, contrary to the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 17, 1840.

[No. 14.]

#### AN ACT

To authorize Lewis R. Barnes to receive the property of his Wards, Jane B. and Ann Eliza K. Norwood.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That it shall be lawful for Lewis B. Barnes and Anson Norwood, administrators on the estate of Bartemus Norwood, deceased, of Greene county, in this State, to deliver over to Lewis R. Barnes, of Kemper county, Mississippi, all property, moneys, notes or effects of any kind, that they may have in their hands belonging to Jane B. and Ann Eliza K. Norwood, as lawful heirs of Bartemus Norwood, deceased.

To receive property, &c.

Sec. 2. *And be it further enacted*, That it shall be the duty of the said Lewis B. Barnes and Anson Norwood, administrators, to make settlement and take receipt from said Lewis R. Barnes, and make due returns, as though he was a resident of this State.

To make settlement.

Sec. 3. *And be it further enacted*, That this act shall take effect immediately after the passage thereof.

Approved, Jan. 16, 1840.

[No. 15.]

#### AN ACT

To ascertain and fix a permanent County Site for the County of Covington, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That William B. Mitchell, George A. Snowden, Thomas Lloyd, James Parker, Bird Tasser, Jacob Merrill and Daniel Dozier, be, and they are hereby appointed Commissioners for the county of Covington, a majority of whom may act, and whose duty it shall be to select and fix a suitable site for the permanent location of the Court House in said county, having due regard to health and all other public convenience; which location shall in no case exceed five miles from the centre of said county.

Commissioners to select site.

Sec. 2. *And be it further enacted*, That it shall be the duty of said Commissioners to make said location upon some lands to which a fee simple title can be obtained, which they are hereby authorized to receive by purchase, donation or otherwise, not exceeding forty acres for the purposes aforesaid; which purchase or donation so received, shall inure to, and be vested in the county of Covington, together with all the issues, rents and profits, arising from the same, for

To locate, &c

May receive donations of land.

the purpose of building thereon a Court House, for said county, and other public buildings.

Selection,  
when made.

Sheriff to ad-  
vertise.

Sec. 3. *And be it further enacted*, That said Commissioners shall make said selection previous to the first Monday in June next, 1840, and shall then immediately notify the Sheriff of said county in writing, of the selection so made, giving a particular description of the selection so made, as the new site for said county; and it shall be the duty of said Sheriff to advertise the same at each election precinct in said county, for at least thirty days prior to the next general election thereafter, to be holden in said county; which notice shall specify the lot on which the selection is made, and that the removal of the Court House will be voted for at said election.

To open poll  
for votes.

Sec. 4. *And be it further enacted*, That it shall be the duty of said Sheriff, to cause to be opened a poll, and an accurate account to be taken of all the votes taken at each precinct in said county, both for and against the removal of the present county site from Montezuma; and all persons who are lawfully qualified, and who may choose to vote upon the question of removal to the new site, shall enter on their tickets or votes, (new site,) and all those opposed to a removal shall, in like manner, enter on their tickets or votes, (Montezuma;) and the Sheriff shall cause to be forwarded to the Court House, all the votes taken at each precinct, and shall in the presence of the inspectors of the election at that place, compare the votes given in at each precinct upon the removal of the Court House, and the place receiving the greatest number of votes, he shall declare to be the permanent county site for the county of Covington; and said Sheriff shall immediately notify said Commissioners of the result of said election: *Provided*, That said election shall in all respects be governed in the same manner as the general election, and none others be eligible to vote at the same, but the qualified electors.

To notify  
Commission-  
ers.

Court House.

Sec. 5. *And be it further enacted*, That if the new site shall receive the greatest number of votes, it shall be the duty of said Commissioners to proceed to the erection of a Court House, upon the lot of land so located, upon the plan or specification by them to be prescribed, by letting the work out to be done, to the lowest responsible bidder, taking his obligation for the completion of the work, within the time and in the manner by them prescribed; the cost of which shall in no case exceed one thousand dollars, to be paid in one and two years, in equal annual instalments, out of the county funds of said county; and the Treasurer of said county is hereby required to pay to order of said commissioners under this act any money in his hands not otherwise appropriated for the purposes aforesaid.

Montezuma.

Sec. 6. *And be it further enacted*, That if in case the larger number of votes shall be in favor of Montezuma, the present county site, it shall then be the duty of said Commissioners to receive by purchase, donation, or otherwise, to which a fee simple title can be made, a lot of land in said Montezuma, and proceed to the building a Court House thereon, in the same manner and under the same rules and regulations as is prescribed in the fifth section of this act.

Sec. 7. *And be it further enacted*, That the Commissioners ap-

pointed under this act, shall receive such compensation for their services as the Commissioners Court of said county shall direct; and also, a remuneration for any money they may expend, in the purchase of land or otherwise, for the use of said county building, to be paid out of the County Treasury; and said Commissioners Court is hereby authorized to assess a County Tax from time to time, sufficient to carry into effect the provisions of this act. Comp'nsation

Sec. 8. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 30, 1840.

[No. 16.]

### AN ACT

For the relief of Cyrus Phillips.

Whereas, it has been represented by Cyrus Phillips, of Montgomery, that in March and April, 1837, he drew and sold to the Branch of the Bank of the State of Alabama at Montgomery, three Bills of Exchange on New-York, amounting to thirteen thousand dollars, which said bills matured in August, after the suspension of specie payments, and that in the settlement of those bills, the said Bank exacted ten per cent. for exchange; for remedy whereof, Preamble.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the said Branch Bank be authorized and required to settle the same, by charging the said Phillips with the full amount of said bills, all expenses thereon, and two and a half per cent. for exchange, and interest upon the same from the maturity of the said bills to the several cash payments made thereon in the mode already prescribed; and if upon such settlement, a balance shall be found due to the said Cyrus Phillips, to refund the same with interest, any law to the contrary notwithstanding. Bank to settle with Cyrus Phillips.

Approved, Jan. 18, 1840.

[No. 17.]

### AN ACT

To authorize the Tax Collector for the County of Talladega and other Counties therein named, to receive Jury Certificates in payment for taxes due said Counties.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the first day of January, 1840, the Tax Collector in and for the county of Talladega, the county of Lawrence, the county of Montgomery, the county of Jefferson, and the county of Benton, shall, and he is hereby authorized to receive for taxes due the said counties, such Jurors' Certificates as shall be issued by the Circuit Court Clerks for said counties, or the certificates issued by the Clerk of the County Court for said counties, and the said certificates shall be received and accredited to the holders thereof in lieu of money, for the amount of such tax as may be assessed and due the said counties, any law to the contrary notwithstanding: *Provided*, That no certificates issued previous to the first day of January, 1840, shall be so received in payment for taxes due said counties. Juror's certificates receivable for taxes.

Approved, Jan. 17, 1840.



[No. 18.]

## AN ACT

To permit the Justices of the Peace for the two Beats which meet in the Town of Florence, to hold their offices within either of said beats, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,*

Justices to  
hold office in  
either beat.

That from and after the passage of this act, it shall be lawful for the Justices of the Peace for the county of Lauderdale, for the two beats which meet in the town of Florence, to hold their offices and courts in either of said beats; and the Justices of the Peace who are now, or may hereafter be elected for the two beats within the corporate limits of the city of Montgomery, in the county of Montgomery, to hold their courts and offices in either of the beats in the said city.

Sec. 2. *And be it further enacted,* That the law which requires that all suits before Justices of the Peace shall be confined to the beat in which the debtor resides, or in which the debt was contracted, be, and the same is hereby repealed, so far as concerns the two beats above named in the county of Lauderdale, and the two beats in the city of Montgomery above named: *Provided,* That nothing herein contained, be so construed as to extend the jurisdiction of said Justices of the Peace, beyond their present limits, except within the corporate limits of the city and town aforesaid.

Sec. 3. *And be it further enacted,* That the second section of an act requiring Justices of the Peace to give bond and security, approved January 30, 1839, be, and the same is hereby repealed so far as said section relates to the county of Mobile.

Approved, Jan. 16, 1840.

[No. 19.]

## AN ACT

To regulate the Collection of the County Tax for the County of Covington, and for other purposes.

Sheriff to as-  
sess and col-  
lect taxes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall hereafter be the duty of the Sheriff of said county, annually, to assess and collect the County Tax for said county, as now required by law.

To give bond.

Sec. 2. *And be it further enacted,* That it shall be the duty of said Sheriff, annually, on or before the first Monday in May, in each year, to enter into bond with approved security, to be taken and approved by the Judge of the County Court, in double the amount of the County Tax for that year, conditioned that he will faithfully and honestly assess, collect, and pay over the County Tax of said county, according to law; which bond shall be deposited in the Clerk's office of the County Court, by the Judge, taking the same for safe keeping; which bond shall be liable to be sued on at all times, for any default in said Sheriff in making improper assessments or collection of said County Tax; and said Sheriff shall, in addition to said bond, take and subscribe an oath, to be endorsed on said bond by the Judge taking the same, that he will faithfully and honestly, to the best of his skill and ability, assess, collect, and pay over the County Tax of said county, according to law.

To take oath.



Sec. 3. *And be it further enacted*, That it shall be the duty of said Sheriff to make out two complete books of his said assessment, one of which he shall deposit in the Clerk's office of the County Court of said county, on or before the first Monday in July, in each year, liable for the inspection of any person; and the other book, he shall retain for his own use, to collect by. Sheriff to make out books.

Sec. 4. *And be it further enacted*, That it shall be the duty of said Sheriff to proceed to the collection of said County Tax, from and after the first Monday in July, in each year, and not sooner: *Provided, however*, It shall be lawful for said Sheriff to receive from any person, his or their tax at any time, after being qualified as aforesaid, who may desire to pay the same. To collect taxes.

Sec. 5. *And be it further enacted*, That it shall be the duty of said Sheriff to complete his collections of said County Tax, and pay the same over to the County Treasurer of said county, on or before the first Monday in November, in each year, and take his receipt for the same; and shall then deposit his book by which he collected said tax, in the Clerk's office of the County Court, to be examined by the Judge and Commissioners thereof; and it is hereby made their duty to hold a special court for that purpose, and if said Sheriff shall be detected in having wilfully violated the law in assessing, collecting, and paying over said County Tax, he shall be held to have violated his said oath, and shall be liable to be proceeded against accordingly. To pay over, &c.

Sec. 6. *And be it further enacted*, That if said Sheriff shall fail or refuse to pay over said County Tax to the Treasurer thereof, by the time specified in this act, he shall be subject to a rule in either the Circuit or County Court, on motion of the Treasurer, on one days notice of such motion being given to said Sheriff or his security, of the time and place of making said motion, and on being found in default, in the whole or in part, it shall be the duty of said court to enter judgment against said delinquent Sheriff, for the amount he may be found in default, with five per cent. per month, as damages, together with the cost of making said motion. On failing to pay, &c.

Sec. 7. *And be it further enacted*, That hereafter, all property whatever, shall be subject to the payment of County Tax, in said county; and the collector's books of assessment, shall be a sufficient judgment against delinquents, to authorize said Sheriff to issue his execution for the collection of said tax, which he is hereby authorized to do in each year after the first day of September, and not sooner; and on giving ten days notice of the time and place of such sale, proceed to sell so much of the delinquent's goods and chattels as will pay his tax for that year. Property taxable.

Sec. 8. *And be it further enacted*, That said Sheriff shall hereafter receive, as compensation for his services in collecting, assessing, and paying over said County Tax, the sum of fifteen per centum, on the first two hundred dollars, and ten per centum, on all sums over that amount, which he may collect in each year, and he is hereby authorized to retain the same. Sheriff's compensation.

Sec. 9. *And be it further enacted*, That it shall hereafter be the duty of the County Treasurers of the counties of Covington, Dale

Duties, Pen-  
alties, &c.

and Henry, to attend each and every Circuit and County Court to be hereafter holden in said counties respectively, for the purpose of receiving and registering claims against said counties, and in every instance, to pay off and discharge said claims when there are funds in their hands so to do; and on failure thereof, said Treasurers, or either of them, shall be subject to indictment in the Circuit Court of the proper county, and on being found guilty, shall severally pay a fine of fifty dollars, for the use of the proper county.

Repeal, &c.

Sec. 10. *And be it further enacted*, That all laws and parts of laws, contrary to the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 30, 1840.

[No. 20.]

## AN ACT

To provide for the support of Paupers, in the county of Pickens.

Authorized to  
purchase  
land.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Judge of the County Court, and Commissioners of roads and revenue, for the county of Pickens, be, and they are hereby authorized to purchase and receive title to any quantity of land not exceeding one quarter of a section, within five miles of the town of Carrollton, in said county; which title shall be made to the judge of the county court of Pickens county, and his successors in office, and shall vest in and be the property of said county.

To contract  
for houses,  
&c.

Sec. 2. *And be it further enacted*, That said judge and commissioners are authorized to contract for the building of all necessary houses for the purposes herein mentioned; and shall have power to make all such by-laws, rules, and regulations as shall seem to be necessary and proper, concerning the land, buildings, or comfort of the poor, having due regard to economy, and the beneficial management of the establishment.

Superintend-  
ant.

Sec. 3. *And be it further enacted*, That said court are hereby authorized to employ a superintendant, and such other assistance, as they shall deem expedient, to superintend and take care of the poor of said county; and to appropriate and pay out of the county treasury, a sum of money sufficient to carry this act into effect.

To meet at  
poor house.

Sec. 4. *And be it further enacted*, That it shall be the duty of the judge of the county court, and commissioners of roads and revenue, to meet at the poor house of said county, at least once in every six months, or oftener if necessary, to examine the condition of the buildings, and appurtenances, and to supervise the situation and treatment of the poor; and shall have power to dismiss the superintendant or any other person connected, in anywise, with the poor house, whenever they may think it proper and expedient.

Overseers.

Sec. 5. *And be it further enacted*, That it shall be the duty of said court to appoint one or two discreet persons in each captain's beat, to act as overseers of the poor, whose duty it shall be to report to each term of the commissioners court, or to the judge, in the intermediate time, whose action thereon, shall expire at the first term thereafter, what person or persons are within their beats, properly

the subjects of charity and public support; and the said court shall inquire into the facts of the case of each one reported, and if deemed expedient, said court or judge, as above provided and restricted, shall order them to be conveyed to the poor house in such way and manner as they may please to order; and said overseer shall continue in office one year. and said court shall at each regular term, (or the judge, may if necessary, during the intermediate time, but subject to the revisal of said court at term time,) fill all vacancies occasioned in anywise.

Sec. 6. *And be it further enacted*, That before the superintendent shall enter upon the discharge of his duties, he shall enter into bond with two or more securities, conditioned, for the faithful performance of his duties, with such penalty as said judge and commissioners may direct, and to be made payable to the judge of the county court of Pickens county, and his successors in office, and to be approved of by said judge; and said bond shall not be void, upon the first recovery, but may be sued on, and a recovery had, as often as the conditions of said bond have been violated. Superintendent to give bond.

Sec. 7. *And be it further enacted*, That it shall be the duty of the clerk of the county court of said county, to keep in a book kept exclusively for the purpose, a regular and continued record, of all orders, rules, and regulations, together with every thing properly a matter of record, connected with the poor house of said county. Clerk's duty.

Sec. 8. *And be it further enacted*, That the provisions of this act shall extend to all the counties in this State, whenever in the opinion of the judge of the county court and commissioners of roads and revenue in the different counties, may seem proper and expedient. To apply to all other counties.

Sec. 9. *And be it further enacted*, That all laws, or parts of laws, contravening the provisions of this act, be, and the same are hereby repealed. Repeal.

Approved, Dec. 20, 1839.

[No. 21.]

### AN ACT

For a third Battalion in the Twelfth Regiment of Alabama Militia.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, a third battalion, be, and the same is hereby established and authorized, in the twelfth regiment of the Alabama militia. 3d Battalion established.

Sec. 2. *And be it further enacted*, That the said regiment shall be divided in the order following, viz: the first, second, third, and fourth beats thereof, shall constitute one battalion; the fifth, sixth, and seventh beats thereof, shall constitute one battalion; and the eighth and ninth beats thereof, being that part of said regiment which is situated in Coosa Valley, shall constitute one battalion. Regiment divided.

Sec. 3. *And be it further enacted*, That it shall be the duty of the Colonel commanding said regiment, to number said battalions, the first of which shall be commanded by a Lieutenant Colonel, the second by a first Major; and the third by a second Major. Colonel to number.

Sec. 4. *And be it further enacted*, That, if at any time, a vacancy should happen in the office of Lieutenant Colonel of said regiment, Vacancies.

the same rule for promotion that is now prescribed by law, shall be observed, in filling of vacancies, and shall extend to the commanders of each battalion successively, according to grade.

Approved, Jan. 1, 1840.

[No. 22.]

### AN ACT

To change the time of holding the County Court, for the County of Jefferson.

First Monday  
in February  
and August.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter, the winter and summer terms of the County Court of Jefferson county, shall be held on the first Monday in February and first Monday in August, in each and every year, instead of the fourth Monday, as is now required by law.

Process.

Sec. 2. *And be it further enacted,* That all process now returnable to the terms of said court, as authorized to be held on the fourth Monday in February and August, be, and the same shall be held to be returnable to the first Monday in the same months.

Approved, Dec. 27, 1839.

[No. 23.]

### AN ACT

To authorize the Court of Roads and Revenue for the County of Talladega, to levy a Tax for the completion of the public buildings in said County.

Special tax.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the court of roads and revenue for the county of Talladega, may levy a tax upon the citizens of said county, at its first session, next after the passage of this act, for the purpose of completing the Court house in said county, which tax shall not exceed the county tax, for the year eighteen hundred and thirty-nine.

How collect  
ed.

Sec. 2. *And be it further enacted,* That said tax shall be assessed and collected by the same officer, and under the same regulations as other county taxes, and when collected, shall be paid over to the commissioners of public buildings in said county, for the purposes aforesaid.

Approved, Jan. 2, 1840.

[No. 24.]

### AN ACT

For the relief of Mary A. J. Rhodes.

To hold prop-  
erty.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be lawful for Mary A. J. Rhodes, of the county of Morgan, to take, receive, and hold, by purchase, gift, or inheritance, any property, either real or personal, free from the hindrance, molestation or authority of her husband, Malichi G. Rhodes, and the same to dispose of by will, gift, or sale, in the same manner as if she were a *feme sole*: *Provided,* the provisions of this act shall apply only to such property as she shall acquire by her own exertions, or from other persons than her husband, and shall not operate to the prejudice of existing creditors, as to property heretofore acquired.

Proviso.

Approved, Jan. 14, 1840.

[No. 25.]

## AN ACT

To authorize the Commissioners of the Sixteenth Section, in township twelve, range twelve, in Wilcox county, to deposit the proceeds thereof in the Branch of the Bank of the State of Alabama at Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Commissioners of the sixteenth section, in township twelve, range twelve, in the county of Wilcox, be, and they are hereby authorized; to deposit the proceeds of said sixteenth section, in the Branch of the Bank of the State of Alabama at Mobile, subject to the same rules, regulations and restrictions as if placed in the State Bank, any law, usage or custom to the contrary notwithstanding.

To deposit in  
Br Bk Mobile

Approved, Jan. 15, 1840.

[No. 26.]

## AN ACT

To repeal an act entitled an act to repeal an act increasing the pay of Jurors, in the county of Henry, approved, January the 28th, 1839.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the above recited act, approved, January the 28th, 1839, be, and the same is hereby repealed.

Repeal.

Approved, Jan. 15, 1840.

[No. 27.]

## AN ACT

To extend the time of holding the County Courts of Chambers county, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the Judge of the County Court of Chambers county, shall be authorized and required to hold the county courts of said county, until the business of said court is disposed of, instead of the time now limited by law.

To hold court  
until the bu-  
siness is dis-  
posed of.

Sec. 2. *And be it further enacted,* That the Judge of said county court, shall be required to hold a court for orphans' business, on the second Monday in each and every month, instead of the first, as now required by law; *Provided,* That the court shall not sit more than two weeks at any one term.

Orphans'  
court.

Proviso.

Sec. 3. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 15, 1840.

[No. 28.]

## AN ACT

To amend an act entitled, an act to change the time of holding the County Court of Montgomery County, approved November 17th, 1827.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be lawful for the County Court of Montgomery County, to continue its sessions from day to day, until the business of said court be disposed of.

County court.

Sec. 2. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 2, 1840.

[No. 29.]

## AN ACT

To repeal in part an act approved January 19th, 1839, entitled an act to appoint an additional Surveyor for the Counties of Marshall, Randolph, and Madison.

Repeal.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of an act, approved January 19th, 1839, entitled, an act to appoint an additional Surveyor for the Counties of Marshall, Randolph, and Madison, be hereby repealed, so far as the County of Marshall is concerned.

Approved, Dec. 19, 1839.

[No. 30.]

## AN ACT

To regulate the proceedings of the Courts, and the Compensation of Witnesses in the Counties of Lowndes, Talladega, Butler, and others.

Clerks to keep a separate docket.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the Clerks of the Circuit and County Courts for Lowndes County, shall make and keep a separate docket of all causes, in which witnesses may be summoned to each term of their respective Courts; and the said Clerks shall, respectively, set the causes as nearly equal as practicable, for trial, on particular days of the term, commencing on the second day thereof; and it shall be the duty of the said Clerks, to notify each witness in the writ of subpœna, of the day of the term on which the cause is set for trial; and no witness shall be entitled to compensation for attending previous to said day; and no cause shall be called for trial before the day appointed for the same as aforesaid.

To notify witnesses.

Clerk to set causes upon docket.

Sec. 2. *And be it further enacted,* That the Clerk of the said Circuit Court, shall, in like manner, set the cause upon the State docket for particular days, and summon the witnesses according to the first section of this act.

Witnesses allowed pay.

Sec. 3. *And be it further enacted,* That a witness summoned by the parties on both sides of a cause in said Courts, shall receive no more compensation than that allowed a witness summoned on one side only; nevertheless, both parties shall be liable to the witness, until he or she is paid by one or the other.

Sec. 4. *And be it further enacted,* That when there are several causes pending between the same parties, for trial, at the same term, the witness shall be entitled to no more compensation than if they had attended in one case only.

Sec. 5. *And be it further enacted,* That the provisions of this act shall extend to, and be in force, in the County of Benton.

Causes not to be continued.

Sec. 6. *And be it further enacted,* That civil causes pending in said Courts shall not be continued beyond the term then holding, unless the applicant make oath that he or she does not believe that he or she can be ready for trial during the session of the Court, unless the adverse party waived the provisions of this section, and prefer a general continuance; and in every such case, the Court shall postpone the cause to some day or time afterwards, during the term; when the same shall be called and tried, or continued according to the rules of law.

Sec. 7. *And be it further enacted*, That the provisions of the foregoing act, shall apply in all its provisions to the Counties of Chambers and Randolph, and the Clerks of the Circuit and County Courts of Chambers and Randolph, are required to do and perform all that is required of the Clerks of the Court of Lowndes to do.

To apply to  
Chambers,  
Randolph,  
Butler and  
Talladega  
counties.

Sec. 8. *And be it further enacted*, That the provisions of this act shall extend to, and be in force in the County of Butler.

Sec. 9. *And be it further enacted*, That the provisions of the foregoing sections of this act, shall apply to the Courts of Talladega, and the Clerks of the County and Circuit Court in and for the said County of Talladega, shall be governed by the same rules as are prescribed in the foregoing sections for the respective Clerks in the County of Lowndes.

Sec. 10. *And be it further enacted*, That the first and second sections of this act shall be construed as directory and cumulative, and not as abrogating the laws heretofore in force.

Approved, Jan. 9, 1840.

[No. 31.]

### AN ACT

To amend and extend an act to Incorporate the Eagle Railroad and Lumber Company, approved December 17th, 1836.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That, on and after the passage of this act, it shall be lawful for the present stockholders of the Eagle Railroad and Lumber Company, to change the corporate name and style of said company, to that of the Mobile and Pascagoula Railroad Company; by, and under which name, they shall be known in law and equity, and they are hereby authorized to reorganize by electing eleven directors to manage the affairs of said company; and shall be allowed, from the passage of this act, two years to commence, and five years to complete the road, specified in the original charter.

Stockholders  
may change  
name, &c.

Sec. 2. *And be it further enacted*, That so much of the charter of the Eagle Railroad and Lumber Company, as is not inconsistent with the provisions of this act, is hereby declared to be in full force and effect, and that so much as in anywise conflicts with this act, is hereby repealed.

Approved, Jan. 1, 1840.

[No. 32.]

### AN ACT

To change the time of holding the August Term of the Commissioners Court of Roads and Revenue in the Counties of Blount and Tuscaloosa.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter, the August Term of the Commissioners Court for the Counties of Blount and Tuscaloosa, shall be held on the second Monday in August, instead of the third Monday, as is now required by law.

Blount and  
Tuscaloosa.

Sec. 2. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 2, 1840.



[No. 33.]

## AN ACT

To require the Sheriff of Montgomery County to take the vote of the people at the next August election, on the subject of the removal of the Court House to the centre of said county.

Sheriff to  
take vote.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Sheriff of Montgomery County is hereby required to take the vote of all persons entitled to vote for members of the General Assembly on the first Monday in August next, for the purpose of ascertaining the sense of the majority of the people of Montgomery county, in relation to the removal of the Court House from the city of Montgomery, to the centre of said county.

Voter to en-  
dorse 'Cen-  
tre,' on his  
ticket.

Sec. 2. *And be it further enacted,* That each voter wishing the Court House removed from the city of Montgomery to the centre of said county, shall endorse the word 'Centre' on his ticket; and the Sheriff is hereby required to cause the managers to keep an accurate account of said votes; and should a majority of the whole number of votes given in, have the word 'Centre' endorsed thereon, then it shall be the duty of the Judge of the County Court and the Commissioners of Roads and Revenue, as soon as practicable, to have an accurate survey made by the County Surveyor, for the purpose of ascertaining the centre of said county.

To sell Court  
house, &c.

Sec. 3. *And be it further enacted,* That so soon as the centre is ascertained, the said Judge and Commissioners shall proceed to locate the site for the Court House at the centre, or within two miles of the same; and shall proceed to lay out lots and selling the same; and they are hereby empowered to sell the Court House and Jail in the city of Montgomery, either for cash or on time, as they shall deem most advisable; first giving at least thirty days notice of said sale; and the said Judge and Commissioners are hereby required to appropriate the funds arising from the sale of the lots at the new site as aforesaid; and the funds arising from said sale of the Court House and Jail to the building of a Court House at the said new site of said county, selected by said Judge and Commissioners.

Approved, Jan. 30, 1840.

[No. 34.]

## AN ACT

To fix the Compensation of Jurors in the County of Mobile.

Repeal.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of an act entitled, an act 'to increase the pay of Jurors in the County of Jackson,' approved February the 1st, 1839, as relates to Mobile County, be, and the same is hereby repealed.

Jurors pay.

Sec. 2. *And be it further enacted,* That in lieu of the per diem compensation allowed by law, to the Jurors in the County of Mobile, the said Jurors shall, after the passage of this act, be entitled to one dollar and fifty cents per day, to be paid under the same rules and regulations as are now provided by law.

Tales jurors.

Sec. 3. *And be it further enacted,* That Tales Jurors shall be entitled to the same compensation, and paid in the same manner, as if they were of the regularly drawn panel.

Approved, Jan. 2, 1840.



[No. 35.]

## AN ACT

To increase the pay of Jurors and Witnesses, in the County of Clarke.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the Jurors and Witnesses, who may be compelled to attend either the County or Circuit Courts of said County of Clarke, shall be entitled to receive as compensation for their services, two dollars and fifty cents per day, instead of the per diem pay, which is now allowed by law, and the mileage now allowed by law, any law, usage, or custom, to the contrary notwithstanding.

Pay of Jurors increased.

Approved, Dec. 19, 1839.

[No. 36.]

## AN ACT

To tax Suits at Law, in the County of Washington, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be a tax of two dollars imposed on all suits at law, hereafter commenced or instituted in the Circuit Court of the County of Washington, or taken to said court by appeal or otherwise, to be taxed by the Clerk in the bill of costs; and when collected, to be paid over to the County Treasurer for the use of said county.

Tax on suits.  
Judge, &c.  
to levy tax.

Sec. 2. *And be it further enacted,* That the Judge of the County Court and Commissioners of Roads and Revenue of said County of Washington, be, and they are hereby authorized and empowered, to levy and assess such tax, upon real and personal estate in said county, as they may think necessary for the use of said county, to be collected in the manner now pointed out by law; and the sheriff of said county shall be entitled to receive, as compensation for collecting said taxes, twenty per centum, on the whole amount collected by him, and paid over to the Treasurer of said County: *Provided, however,* That he shall not receive more than two hundred dollars, as commissions for collecting the taxes of any one year.

Sheriff's compensation.

Proviso.

Sec. 3. *And be it further enacted,* That the Clerk of the County Court of said County of Washington, shall receive the sum of fifty dollars per annum, for *ex officio* services, performed by him, instead of the sum now allowed by law, as full compensation for such services.

Clerk's fees.

Sec. 4. *And be it further enacted,* That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 31, 1840.

[No. 37.]

## AN ACT

To provide for the sale of Lands and Slaves in the Town of Decatur, in certain cases.

Whereas, from the peculiar local division of the settlements in the county of Morgan, it is often prejudicial to the interest of both debtors and creditors, that lands and slaves, taken in execution in said county, lying and being in the western parts thereof, should be exposed to sale at the courthouse in said county, for remedy whereof:

Preamble.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the Sheriff or Coroner of the said county of

Land and Negroes to be sold in Decatur, in certain cases.

Morgan, from and after the second Monday in March next, to expose to sale, all lands which may be levied on by execution, lying and being in said county, west of Flint river, and all slaves, which may be taken in execution, belonging to defendants residing in said county west of said Flint river, at the market-house in the Town of Decatur, in Morgan county, on the second Monday and the following Tuesday and Wednesday in every month, after having advertised the time and place of sale according to law.

Sec. 2. *And be it further enacted*, That all acts and parts of acts, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Jan. 2, 1840.

[No. 38.]

### AN ACT

To authorize the the election of a Tax Collector, for the county of Tallapoosa, and other Counties therein named.

Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That it shall be the duty of the Judge of the County Courts and Commissioners of Revenue and Roads, for Tallapoosa, Chambers, Autauga and Henry counties, on the first Monday in February next, to elect a Tax Collector for said counties, to assess and collect the tax of said counties, for the year eighteen hundred and forty; and the person so elected shall, before he enters upon the duties of his office, give bond, with at least two good securities, payable to the Judge of the County Court and his successors in office, in double the amount of the tax for said year, to be approved of by the Judge of said County Court, conditioned for the faithful discharge of his duties, and take the oaths now required by law of Assessors and Tax Collectors; and the Tax Collector so elected, shall be subject to all laws which now are, or hereafter may be in force, respecting Assessors and Tax Collectors.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Sheriff of said counties, to advertise and cause to be elected, by the qualified electors of said counties, at the general election on the first Monday of August next, and in each and every year thereafter, an Assessor and Collector, who shall, before he enters upon the discharge of his duties, give bond, and take the oaths, as required in the first section of this act.

Sec. 3. *And be it further enacted*, That the Assessors and Collectors, who shall be elected under the first and second sections of this act, shall be entitled to receive the same compensation, that the Sheriffs of said counties are entitled to, for assessing and collecting the tax of said counties; and the Assessors and Collectors so elected, shall be subject to the same laws, rules and regulations as other tax collectors.

Sec. 4. *And be it further enacted*, That all laws authorizing or requiring the Sheriff to assess and collect the tax of said counties, be, and the same are hereby repealed.

Sec. 5. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, January 1, 1840.

To elect tax collector.

To give bond.

Oath.

Sheriff to advertise.

Fees.

[No. 39.]

## AN ACT

To provide for the election of a Tax Collector, for the County of Pike.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the Sheriff of Pike county, on the first Monday of March, in the year of our Lord, one thousand eight hundred and forty, after having duly advertised the same, at each election precinct within said county, for at least twenty days previous thereto, to hold an election for the office of Tax Collector, for said county, under the same rules, regulations and restrictions as are now provided for by law, for the election of members of the Legislature. Election.

Sec. 2. *And be it further enacted,* That it shall be the duty of the said Sheriff to hold an election for the same officers on the first Monday in August, in each and every year thereafter, whose duty it shall be to collect and pay over to the proper officers, the taxes which may be assessed for the year next following his election; and that it shall be the duty of the tax collector, to be elected as is provided for, by the first section of this act, to assess and collect the taxes of said county, for the year eighteen hundred and forty. Sheriff's duty.

Sec. 3. *And be it further enacted,* That it shall be the duty of the tax collectors, so to be elected, to assess as well as to collect and pay over the taxes of said county, and that before they enter upon the discharge of their said duties, each of them shall enter into bond with approved security, to the Judge of the County Court of said county and his successors in office, conditioned for the faithful performance of his duty, in the sum of five thousand dollars. Collector's duty. Bond.

Sec. 4. *And be it further enacted,* That as a compensation for the services of said Tax Collector, it shall be lawful for, and the Judge of the County Court, and the Commissioners of roads and revenue of said county, are hereby empowered to allow him any sum which they may think proper and adequate: *Provided,* The same does not exceed ten per cent. on the amount of taxes collected. Compensation. Proviso.

Sec. 5. *And be it further enacted,* That all laws and parts of laws, coming within, or conflicting with the provisions of this act, be, and the same hereby repealed.

Approved, January 31, 1840.

[No. 40.]

## AN ACT

To authorize the Judge of the County Court and Commissioners of Roads and Revenue for the County of Pickens, to levy a tax for certain purposes therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be lawful for the Judge of the County Court and Commissioners of Roads and Revenue for the County of Pickens, to levy a tax upon the persons and property of the citizens of said county, not exceeding fifty per centum, per annum, on the authorized county levy, for such number of years, as in their opinion may be necessary to raise a sum of money sufficient for the building a Jail. Special tax.

Sec. 2. *And be it further enacted,* That the said Commissioners Court is hereby authorized to let to contract, to the lowest re-

Contract.

sponsible bidder, the building of said Jail, either at public sale, or in form of sealed proposals, giving such notice of the form of the building and the time of letting it out, as to them shall seem proper, in one of the newspapers in the town of Tuscaloosa, and in the county of Pickens.

Approved, Dec. 30, 1839.

[No. 41.]

## AN ACT

To change the time of holding the County Court of Autauga County.

3d Monday in  
Feb. & Aug.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the County Court for the County of Autauga shall hereafter be held on the third Mondays in February and August, in each and every year, instead of the time now prescribed by law.

Process.

Sec. 2. *And be it further enacted,* That all process, original, mesne and final, made returnable to said County Court, at the next term thereof, at the time the same is required to be held by law before the passage of this act, be, and the same are made returnable to the term of the said Court, to be held on the third Monday in February next.

Sec. 3. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act be, and the same are hereby repealed.

Approved, December 28, 1839.

[No. 42.]

## AN ACT

Relating to Sheriff's Sales, in Sumter County.

Sheriff's sales  
where made,  
and when.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sales of real and personal estate, hereafter to be made by the Sheriff of Sumter county, in this State, on any process in his hands, shall be made at Gainesville, on the second Monday of each and every month, in said county, in all cases where the person or party, for whose debt such property or estate is sold, shall reside in that part of said county, which lies north of the Land District line between the Demopolis and Tuscaloosa Land Districts; which line runs between township twenty and twenty one: and sales shall be there made in all cases where the debtor is a non-resident of said county, and the property or estate to be sold, lies in the part of said county north of the line aforesaid; and the advertisement for such sales, now required to be posted at the Court-House door, shall hereafter be posted at the Post Office, in said town.

Approved, January 1, 1840.

[No. 43.]

## AN ACT

To alter the Northern and Western lines of Dale County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, all those parts of sections five, six, and seven, in township seven, range nineteen, lying north of the Conecuh river, shall be added to, and belong to Pike county.

Approved, January 29, 1840.

[No. 44.]

## AN ACT

To compensate James Thompson for public services, in Chambers County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Judge of the County Court and Commissioners of revenue and roads of the county of Chambers, be, and they are hereby authorized, at any regular or called court, to allow to James Thompson such per diem pay, as to them may seem reasonable, for the time engaged in attending the Commissioners' Court during the time he was Judge of the County Court of said county, to be paid out of any money in the county Treasury, not otherwise appropriated. To allow pay per diem, &c.

Sec. 2. *And be it further enacted,* That the court aforesaid, be, and they are hereby authorized to allow to said Thompson, such pay as to them may seem reasonable, for his services in organizing the county, and administering the criminal law as conservator of the peace, taking into consideration the difficulties and dangers, and all the circumstances thereof, to be paid out of any money in the county Treasury, not otherwise appropriated. Organizing the county.

Sec. 3. *And be it further enacted,* That the court aforesaid, be, and they are hereby authorized to allow to said Thompson, such pay as to them may seem reasonable, for the services rendered by him, in relation to the school lands of Chambers county, and funds arising therefrom, to be paid out of the funds belonging to the townships respectively, for which the services were rendered, to be paid by the Cashier of the Montgomery Branch Bank, on the certificate of the court or its clerk. School lands

Approved, February 1, 1840.

[No. 45.]

## AN ACT

For the better regulation of Schools, in the County of Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the first Monday of August, A. D. 1840, the board of Mobile School Commissioners, shall consist of eight members, who shall be elected as is now provided by law; but in no instance shall more than one Commissioner be elected from either of the wards in the city, or company beats, in the country part of the county. Number of Commissioners.

Sec. 2. *And be it further enacted,* That it shall be the duty of the Mobile School Commissioners, as soon as the school fund on hand may be sufficient, to cause to be erected a suitable building, or buildings, in each ward in the city, and in each company beat in the country part of the county, for the accommodation of the scholars, and to employ Teachers, for the several schools thus established, according to the provisions of an act approved December 19, 1836, entitled an act for the establishment of schools in the county of Mobile, and to provide a fund for the maintenance of the same. To erect buildings.

Sec. 3. *And be it further enacted,* That it shall be lawful for the Mobile School Commissioners, to become possessed of any lot or piece of ground, by purchase or otherwise, which may be necessary to carry into effect the provisions of the second section of this act, May hold property.

and to sell and convey any lot of ground which they have, or may hereafter acquire: *Provided, however,* That no lot shall be sold, or school removed, without the concurrence of a majority of the commissioners.

Sec. 4. *And be it further enacted,* That all laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, February 3, 1840.

[No. 46.]

## AN ACT

To Incorporate the Alabama Coal Mine and Insurance Company.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Jonathan Steel, H. B. Gwathmy, L. Gibbons, and Joseph E. Murrel, and such others as they may associate with them for that purpose, are hereby created a body politic and corporate, by the name and style of the Alabama Coal Mine and Insurance Company; and by that name and style, shall be capable of suing and being sued, in any court of law or equity in this State; of purchasing, holding, improving, and conveying property, real, personal or mixed: to make, have and use a common seal, and the same to change and renew at pleasure; and generally to do every act or thing necessary to carry into effect this act, or to promote the object and design of this corporation, which may not be inconsistent with the constitution and laws of this State, or of the United States.

Sec. 2. *And be it further enacted,* That the capital stock of this corporation, shall be two hundred thousand dollars, to be divided into two hundred shares of one hundred dollars each, the same to be paid in the manner following, to wit: five dollars on each share at the time of subscription; and five dollars on each share within ——— days after the organization of the company; and the residue in such manner as the President and Directors, hereinafter provided for, may prescribe; which said capital stock may be hereafter increased from time to time, at the discretion of the President and Directors, to five hundred thousand dollars, in such manner as they may think proper: and it may be lawful for any person to subscribe for, and hold stock in said corporation, and vote thereon, under such rules and regulations as may be prescribed from time to time by the President and Directors: And if any stockholder shall refuse or neglect to make the payment as required, he or she shall cease to be a stockholder in said corporation, and his or her shares, at the discretion of the President and Directors, be forfeited, and the same may be sold by the corporation, in any manner it may think proper.

Sec. 3. *And be it further enacted,* That books of subscription shall be opened at such times and places as the aforesaid persons or a majority of them shall direct: *Provided,* That ——— days previous notice be given of the time and place, and the persons under whose direction the said books of subscription shall be opened: And the said persons as soon as may be, after the books of subscription shall be closed, shall call a meeting of the stockholders, for the election of a President and four Directors of the said company; and the

said President and Directors shall hold their offices for twelve months, unless otherwise ordered by a resolution of the stockholders, who shall appoint the times and places of such election: and should there be a failure at any time, to elect a President and Directors, the corporation shall not be dissolved, but the President and Directors shall hold their offices until a new election: and the President and Directors shall have full power to appoint all officers and agents of said company, to fix their compensation, prescribe their duties, define their powers, provide for taking bonds from them for the security of the corporation, for the faithful performance of their duty; and make such by-laws as may be necessary for its government. They shall also have power to fill any vacancy that may occur in their own body, by the death, resignation, or disqualification of any member: *Provided*, That no person not a stockholder shall be eligible to the office of President or Director of said company.

*Provide.*

Sec. 4. *And be it further enacted*, That the President and Directors shall have power to work any and all such Coal or Iron mines, as they may lawfully acquire in the State of Alabama, remove obstructions at their own expense, in the navigation of the Warrior river above Tuscaloosa; make insurances against all losses by fire; and to take marine and river risks.

*To work coal and iron mines.*

Sec. 5. *And be it further enacted*, That no stockholder indebted to said corporation, shall be permitted to transfer his or her stock, until the debts due by him or her to said corporation, shall be paid: but no stockholder shall be liable for any debts, contracts, or engagements of said corporation, except to the extent of his or her capital stock; but that the real estate, money, rights, and credits, and other property of said corporation, shall be liable for the same.

*Stock not transferable.*

Sec. 6. *And be it further enacted*, That when the sum of one hundred thousand dollars shall have been subscribed, said corporation shall be authorized to commence operations: And the President and Directors shall be authorized to receive in payment for stock, Coal or Iron mines, at such valuation as they and the subscribers may agree upon, to an amount, not exceeding in the aggregate, forty thousand dollars.

*To commence operations.*

Sec. 7. *And be it further enacted*, That this act be in force for twenty-five years after its passage: *Provided*, nothing in this act shall be so construed, as to authorize banking powers, in any shape or manner whatever.

*Repeat.*

Approved, Feb. 4, 1840.

[No. 47.]

#### AN ACT

To appoint an additional Surveyor, in the County of Monroe.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*; That from and after the passage of this act, the Judge and Commissioners of roads and revenue for the county of Monroe, be, and the same are hereby authorized and required to appoint an additional Surveyor for the county of Monroe, who shall be governed by the same laws and regulations, as now provided for the regulation of county surveyors.

*Surveyor.*

Approved, Feb. 1, 1840.



[No. 48.]

## AN ACT

To authorize the emancipation of a certain Slave therein named.

Preamble.

Whereas, it appears from the petition of Claro Fernandez and many other citizens of Mobile, that Marie Hyppolite, a young girl of color, now held as the slave of said Carlo Fernandez, was in all probability, born of free parents, but could not, without difficulty and expense beyond her reach, establish the fact: therefore,

Emancipate  
and set free.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That the said Carlo Fernandez be, and he is hereby authorized to emancipate and set free, the said Marie Hyppolite, reserving the right of creditors, and upon the express condition that the said Claro Fernandez, enter into bond and security in the sum of one thousand dollars, to be approved by the judge of the County Court of Mobile county, payable to the Governor of this State, and his successors in office, conditioned that the said slave Marie Hyppolite shall never become a charge to this State, or any county, city or town therein: And the said Marie Hyppolite shall not be required, under any law, to leave this State.

To give bond.

Approved, February 4, 1840.

[No. 49.]

## AN ACT

To legalize titles made by the Treasurer of the Board of Commissioners of the Town of Livingston, in the County of Sumter.

Treasurer to  
make titles.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all Patents issued, or Deeds executed, or which may hereafter be issued or executed, by the Treasurer of the Board of Commissioners for the town of Livingston, in the county of Sumter, in pursuance of any sale made by said Commissioners, to purchasers or owners of town lots, shall be deemed and held to be as good and valid in law and equity, as if the same had been or may be issued by the Board of Commissioners for said town of Livingston, in the county of Sumter.

Approved, January 30, 1840.

[No. 50.]

## AN ACT

For the relief and protection of Ship Carpenters, Ship Joiners and others in the City and County of Mobile.

To have a  
lien on work  
done.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all ship carpenters, ship joiners, caulkers and spar makers, in the City and County of Mobile, shall have a lien on all articles or work put up made or repaired by them, in any ship, ship yard, dock yard, or at any other place within said city or county, when said work shall have been made, put up, or repaired, until paid for putting up, making or repairing the same, according to the terms of the contract therefor.

Sec. 2. *And be it further enacted,* That if any articles or work shall remain for the space of five days after it has been made, put up, or repaired by any ship carpenter, ship joiner, caulker or spar maker, in the



hands or possession of said ship carpenter, ship joiner, caulker or spar maker, unpaid for or unsatisfied, according to the terms of the contract for said work, it shall be lawful for said ship carpenter, ship joiner, caulker or spar maker, who has made, put up or repaired the articles or work aforesaid, on giving ten days public notice of the time and place of sale, to cause the articles so made, put up or repaired to be sold by any Auctioneer in the city of Mobile, selling for the amount of the lien, and such sale shall confer good title on the purchaser of any article so sold. Articles remaining on hand to be sold, &c.

Sec. 3. *And be it further enacted*, That it shall be the duty of the Auctioneer selling any article under the provisions of the foregoing section to pay over to the ship carpenter, ship joiner, caulker or spar maker, for whose benefit such sale has been made, the amount of the lien on the article so sold, and after deducting all charges, pay the excess to the person on whose order and account the said work has been done: *Provided*, the said ship carpenter, ship joiner, caulker or spar maker shall first file with some justice of the peace of the said county of Mobile, an affidavit of the amount due him for the work so made, put up or repaired by him. Auctioneer to pay over.

Approved, Feb. 4, 1840.

[No. 51.]

#### AN ACT

To provide a more perfect remedy in cases of unlawful detainer in the City of Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That any tenant or tenure, at will or at sufferance, for a part of a year, or one, or more years, or any person claiming by, through, or under them; or who shall take possession upon their desertion or abandonment of the demised premises, during their term or before delivery to the lessor; and every person who shall fail to pay his rent according to the stipulation of a lease, containing a clause of re-entry, or shall violate any of the express stipulations of the said lease; or who shall wilfully, and without force, hold over any lands, tenements, or hereditaments, in the city of Mobile, after demand and notice given for the delivery of possession thereof, by his or her landlord or landlords, lessor or lessors or the person to whom the remainder or reversion, of such lands, tenements and hereditaments, shall belong, his or their agents or attorney, the person or persons so holding over, shall be guilty of an unlawful detainer. Unlawful detainer.

Sec. 2. *And be it further enacted*, That the Judge of the county court of Mobile county and the mayor of the said city of Mobile, shall have cognizance of the said causes, in the same manner as justices of the peace now have. Who have cognizance.

Sec. 3. *And be further enacted*, That the adjudication of complaints under this act, shall be examinable by the circuit court, after judgment by certiorari, and any judge of the circuit or supreme court, &c. Examination. may grant such writ, but the proceedings under this act, shall not be

Certiorari,  
how issued.

stayed or superceded by such writ of certiorari or any other writ, except in the case hereafter provided.

Sec. 4. *And be it further enacted*, That upon any application for a writ of certiorari, the judge to whom the same is addressed, may in his discretion issue an order to the judge, mayor, or magistrate, trying the complaint, requiring him to stay the writ of restitution, until the complainant shall give bond, with good and sufficient security, for the payment of all costs, in the said suit, in case of reversal of the said judgment, and all such damages as the defendant may sustain by the wrongful issuance of the writ of restitution, or decision of the cause; which bond shall be returned with the papers into the circuit court, and which being executed the writ of restitution shall be issued by the judge, mayor or magistrate, trying the cause as if no certiorari had been awarded.

Cause re-  
versed tried  
*de novo*.

Sec. 5. *And be it further enacted*, That the cause in the circuit court, if reversed, shall be tried in that court *de novo*, and the court shall instruct the jury, if they find a verdict for the defendant, to assess the damages sustained by the defendant, in consequence of the issuance of the writ of restitution, and shall give judgment against the complainant and his securities for the amount of the said damages, as well as to award a writ of possession in favor of the defendant.

Either party  
allowed to  
amend.

Sec. 6. *And be it further enacted*, That in case of reversal in the circuit court, the court may allow either party to amend the proceedings in the cause, so as to have the case fairly tried on its merits.

Sec. 7. *And be it further enacted*, That this act shall not be so construed as to repeal any part of the act entitled forcible entry and detainer, unless it plainly conflicts with the provisions of this act.

Approved, Feb. 1, 1840.

[No. 52.]

#### AN ACT

To authorize the election of an additional Constable in the Livingston Beat, in Sumter County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the qualified electors in the Livingston Beat, in the county of Sumter, be, and they are hereby authorized to hold an election for an additional Constable for said beat.

Approved, Jan. 30, 1840.

[No. 53.]

#### AN ACT

To be entitled an act to amend an act for the better regulating the working on so much of the Federal Road as constitutes the boundary line between the counties of Monroe and Conecuh, approved 2d December, 1837.

Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be lawful for all persons liable to work on roads in the counties of Monroe and Conecuh, living within one and a half mile from the Federal Road, and no others to work on the same, in the manner now prescribed by law, any law to the contrary notwithstanding.

Approved, Jan. 30, 1840.

[No. 54.]

## AN ACT

To amend the twelfth section of an act entitled an act to incorporate the Montgomery Rail Road Company, approved January 15th, 1834.

Whereas, doubts have arisen as to the true meaning and intent of the twelfth section of the act entitled an act to incorporate the Montgomery rail road company, whether when an appeal shall have been taken in accordance with the provisions of the above recited act the work of said company shall be delayed, therefore: Preamble.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the work shall in no wise be delayed on account of the proceedings provided for in said section of the above recited act, but the said company on tendering the amount to which the land, stone, gravel, or timber, shall have been valued (as provided for in said section of said act) to the owner, or depositing the same in the office of the clerk of said court may proceed with said work, as if there had been no appeal. Work to proceed.

Approved, Jan. 31, 1840.

[No. 55.]

## AN ACT

For the benefit of Louisa D. Harriss of Brookville, Blount County, wife of Thomas H. Harriss.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That no estate, real or personal, hereafter to be accumulated, by the said Louisa Harriss, shall be liable to any debt of Thomas H. Harriss: *Provided,* they do not live together as man and wife.

Approved, Jan. 31, 1840.

[No. 56.]

## AN ACT

For the relief of John B. Hogan, of the County of Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in all cases where it may be necessary for John B. Hogan to take or subscribe the oath or oaths, contemplated by the laws of this State, against duelling, that the same be confined in point of time to the first day of January, in the year of our Lord one thousand eight hundred and thirty-eight.

Approved, Feb. 4, 1840.

[No. 57.]

## AN ACT

To divorce Alfred M. Jones from his wife Parthania J. Jones.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That pursuant to a decree of the Court of Chancery, holden at Moulton, in the sixth Chancery District of the Northern Division of the State of Alabama, in December, in the year of our Lord one thousand eight hundred and thirty-nine, the bonds of matrimony heretofore subsisting between Alfred M. Jones and Parthania J. Jones, his wife, be and the same are hereby dissolved and annulled, and that henceforth the said Alfred M. Jones be divorced from his said wife Parthania J. Jones. Divorce.

Approved, February 4, 1840.

[No. 58.]

## AN ACT

To authorize James M. Burgess to keep a Ferry, &amp;c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That James M. Burgess, be, and he is hereby authorized to establish and keep a Ferry over the Alabama river, at Bell's landing, in the county of Monroe; charging such rates of toll as may be established, and entering into such bond as may be directed from time to time, by the Commissioners of Revenue and Roads, of the said county of Monroe.*

Approved, February 4, 1840.

[No. 59.]

## AN ACT

Supplementary to an act to amend the Laws for the collection of Taxes in the county of Marengo.

Supplement.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the act above referred to, and to which this is intended as a supplement, shall take effect from and after the passage thereof, any thing in said act to the contrary notwithstanding.*

Judge of the  
County court  
to perform  
duties, &c.

Sec. 2. *And be it further enacted, That for the purpose of more effectually carrying into effect the provisions of an act, to which this is a supplement, the Judge of the County Court of the county of Marengo, shall for the present year, have power, and authority in vacation, to perform the duties required of the Judge of the County Court and Commissioners of Roads and Revenue.*

Approved, February 4, 1840.

[No. 60.]

## AN ACT

To provide for the more permanent location of the seat of Justice, for the county of Coosa.

Sheriff to hold  
election.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That it shall be, and is hereby made the duty of the Sheriff of the county of Coosa, on the first Monday of May next, to cause to be opened and kept by managers, at the several precincts in said county, (which said managers shall be appointed by the Sheriff) a poll, for the purpose of settling down upon some place in the county, for the permanent location of the seat of justice for said county; and all persons voting at said election, shall write on their tickets, the place they wish for said location; and all the votes given in at said election, shall be counted out and returned by the managers at the several election precincts to the Sheriff of the county, who shall, in connection with the Judge of the County Court, count out all the votes so given and proclaim the result of said election; and the place receiving a majority of the votes, shall be the permanent seat of justice for the county of Coosa.*

Sec. 2. *And be it further enacted, That it shall be the duty of the court of Commissioners of Revenue and Roads for said county, and they are hereby vested with full powers for that purpose. at the*

first term of said court, after the seat of justice for said county shall be selected and located, to take all necessary and proper measures, to have a good and sufficient Court House and Jail erected at the place selected; and they are hereby authorized to receive any donations or grants, whether of land, money or other thing, that may be made to them, for the purpose of erecting said Court House and Jail, and if the ordinary revenue of said county, and any donations or grants that may be made shall be insufficient to defray the cost of erecting and finishing said Court House and Jail, the said court shall have power to levy a special tax for that purpose, to be collected as the county tax now is.

To build  
court house  
and jail.

Sec. 3. *And be it further enacted*, That if on the first election, no place shall receive a majority of the votes, it shall be the duty of the Commissioners of Roads and Revenue, to place the two places getting the highest vote in nomination, and the Sheriff shall proceed to advertise an election, for the purpose of ascertaining the wishes of the people of said county upon the two points in nomination, by giving at least thirty days notice, at two places in every precinct in the county, and by publishing it in the Wetumpka Argus, and the place getting the highest vote, shall be declared to be the permanent seat of justice for the county of Coosa.

To hold se-  
cond election.

Sec. 4. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act be, and the same are hereby repealed.

Approved, February 5, 1840.

[No. 61.]

## AN ACT

The more effectually to secure the collection of Rents in the City of Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That whenever any landlord, his agent or attorney, shall make complaint on oath, to any Justice of the Peace in the city of Mobile, that any person or persons is or are indebted to him, for the rent of any tenement within the corporate limits of the said city, and shall enter into bond and security in four times the amount of the rent alledged to be due, conditioned to pay the said defendant all costs and damages he may recover for the wrongful or vexatious suing out the warrant hereinafter mentioned, it shall be lawful for the said Justice of the Peace to issue his warrant returnable before him, not less than four, nor more than ten days from the time the warrant shall be issued, directed to any constable of said city, requiring him to seize and to take into his possession any goods and chattels belonging to the defendant which may be found in the tenement for which the rent shall be due; and the constable shall keep the goods and chattels so seized to answer the judgment which may be rendered by the Justice of the Peace in the cause, unless the debt shall be sooner paid with all costs; and the Justice of the Peace on the return of said warrant shall proceed and render judgment according to the merits of the case.

Landlord to  
make com-  
plaint on  
oath.

Sec. 2. *And be it further enacted*, That whenever the sum sworn

Justices to  
direct sum-  
mons.

to be due, shall exceed the sum of fifty dollars, it shall be the duty of the Justice of the Peace to direct the same to the Sheriff of the county of Mobile, and make the same returnable before the County or Circuit Court of the said county, which court shall proceed at the return term of said warrant, to render judgment in the said cause; and it shall be the duty of the said Sheriff of the said county to proceed in the manner directed by the first section of this act.

Defendant  
may replevy  
property.

Sec. 3. *And be it further enacted*, That the said defendant to the said warrant, may replevy the property seized: *Provided*, he enter into bond and security, payable to the plaintiff, in double the amount of the sum sworn to be due; conditioned to pay the judgment which shall be rendered against him, or surrender the said property to the proper officer, and the said bond shall have the force and effect of a judgment, and execution may issue thereon, if the property so replevied shall not be delivered to the proper officer, within fifteen days after the rendition of judgment.

Treble dama-  
ges.

Sec. 4. *And be it further enacted*, That if any person shall wrongfully or vexatiously sue out such warrant, he shall be liable to pay to the defendant therein, treble damages, to be recovered by action on the case before any court having competent jurisdiction.

Approved, Jan. 30, 1840.

[No. 62.]

#### AN ACT

To divorce Elizabeth B. Jones from her husband Thomas L. Jones.

Divorce.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the bonds of matrimony heretofore solemnized and subsisting between Elizabeth B. Jones and Thomas L. Jones, her husband, be, and the same are hereby annulled and dissolved; and that said Elizabeth B. Jones, in pursuance of a decree of the Chancery Court, holden at Moulton, in the sixth district of the Northern Chancery Division of the State of Alabama, made at the December Term of said Court, be henceforth divorced from her said husband Thomas L. Jones.

Approved, Feb. 1, 1840.

[No. 63.]

#### AN ACT

To alter the mode of Selecting Grand Jurors for the County of Covington.

Grand Jurors.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be the duty of the Judge of the County Court together with the Commissioners of Roads and Revenue of said County of Covington, or a majority of them, to select the number of Grand Jurors now required by law to attend the Circuit Courts of said County: *Provided*, That said selection shall be so made as not to require any one set of Grand Jurors to serve oftener than one in any two terms of said Circuit Court, any law, usage, or custom, to the contrary notwithstanding.

Approved, Feb. 1, 1840.

[No. 64.]

## AN ACT

To compensate the Commissioners of Roads and Revenue in the Counties of Marshall and Benton.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the Commissioners of Revenue and Roads in the Counties of Marshall and Benton, shall each receive the sum of two dollars per day, for each day they may attend any Commissioners Court of Roads and Revenue in said Counties, and all ferriages and pikeages that each commissioner may pay in going to and returning from said Commissioners Court, to be paid out of the Treasury of said Counties, on the certificate of the Clerk of the said County Courts, stating the number of days each commissioner has attended said Commissioners Court, and the sum which he shall receive, any law to the contrary notwithstanding. Compensation.

Approved, Jan. 31, 1840.

[No. 65.]

## AN ACT

To repeal in part an act entitled an act to Incorporate the Town of Livingston, the County Site of Sumter County, approved, January 10th, 1835.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of the above recited act, as fixes the amount of taxes to be raised at one third the State tax, be, and the same is hereby repealed. To levy tax.

Sec. 2. *And be it further enacted,* That the Intendant and Council shall have power to lay and collect a tax on real estate, negroes, and other property, sufficient to defray the ordinary expenses of said corporation: *Provided,* They shall, in no one year, lay and collect more than three times the amount of the now County Tax, together with such poll tax as the Intendant and Council may deem proper. Vacancies.

Sec. 3. *And be it further enacted,* That hereafter the Intendant and Council, when any vacancy occurs in the office of constable in said town, shall have power to fill all such vacancies who shall hold their office till the next general election.

Approved, Jan. 31, 1840.

[No. 66.]

## AN ACT

To change the Names of certain Persons therein named, and other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the names of Amanda Louisa Smith, and Adaline McDonald Berry, of the County of Butler, in this State, be changed to Amanda Louisa Bowen, and Adaline McDonald Bowen, and that they be, and are hereafter to be considered as the legal heirs and representatives of Edward Bowen, of the county aforesaid, and shall be able and capable in law, to inherit all the estate of the said Edward Bowen, in the manner and form in which they would inherit if they were his lawfully begotten children. Names changed.

Sec. 2. *And be it further enacted,* That the name of Cordelia Sullivan, of the county of Coosa, be, and it is hereby changed to the name of Cordelia Ann Wilkins. Name changed.

Approved, Jan. 31, 1840.



[No. 67.]

## AN ACT

To change the time of holding the County Courts in Macon County.

3d Monday in  
Feb. & Aug.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the County Courts of Macon County, shall be holden on the third Monday in February and August, of each and every year, instead of the time heretofore provided by law, and continue one week, should the business require it.

Process when  
returnable.

Sec. 2. *And be it further enacted,* That all writs and other process made returnable to the said courts, as heretofore provided by law, shall be made returnable to said courts as altered by this act.

Approved, Feb. 1, 1840.

[No. 68.]

## AN ACT

To appoint a Commissioner to make titles to lots in the Town of Carrollton.

Judge to in-  
vestigate, &c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Judge of the County Court of Pickens County, or his successors in office, be, and are hereby empowered to investigate the legal claims of individuals to lots purchased in the Town of Carrollton, and to make good and lawful titles to the same.

Books.

Sec. 2. *And be it further enacted,* That he shall have the power to demand the books and papers in the hands of the old commissioners, who have either died or removed from said county.

Approved, Jan. 30, 1840.

[No. 69.]

## AN ACT

To regulate the pay of Jurors for the County of Pike.

Compensa-  
tion.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the Jurors for the County of Pike, who may be drawn, and serve on the regular Panel of Grand or Pettit Jurors, shall be entitled to receive, as compensation for their services, one dollar and fifty cents per day, instead of the allowance that is now allowed by law, and their certificates shall be receivable for the taxes of said county, any law or usage to the contrary notwithstanding.

Approved, Feb. 1, 1840.

[No. 70.]

## AN ACT

To compensate a certain Person therein named.

W. K. Baylor

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of four hundred dollars, be allowed and paid to Walker K. Baylor, for services performed by him as engineer of the Board of Commissioners for the improvement of the Black Warrior river.

Sec. 2. *And be it further enacted,* That the Cashier of the Bank of the State of Alabama, be required to pay the above amount out of the appropriation made at the last session of the legislature for the improvement of the Black Warrior river.

Approved, Feb. 4, 1840.



[No. 71.]

## AN ACT

To divorce Elizabeth G. Martin from her husband Joseph F. Martin.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in conformity with a decree of the Chancery Court, holden in the Town of Moulton, in the County of Lawrence, on the first Monday after the fourth Monday in November, A. D. one thousand eight hundred and thirty-nine, the bonds of matrimony, heretofore subsisting between Elizabeth G. Martin, and her husband, Joseph F. Martin, be, and the same are hereby dissolved and annulled, and the said Elizabeth G. Martin is hereby divorced from her husband Joseph F. Martin.

Divorced.

Approved, Feb. 1, 1840.

[No. 72.]

## AN ACT

For the support of Paupers in the County of Henry.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Judge of the County Court and Commissioners of roads and revenue for the county of Henry, be, and they are hereby authorized and required, whenever they, or a majority of them, shall deem it necessary, to purchase and receive titles to any quantity of land not exceeding one hundred and sixty acres; which title shall be made to the Judge of the County Court, and his successors in office, and shall vest in, and be the property of the county of Henry.

Authorized to purchase land.

Sec. 2. *And be it further enacted,* That said Judge and Commissioners are hereby authorized to contract for the building of all necessary houses for the purpose hereinafter mentioned, and every thing else that is necessary to be done, the expenses of which shall be paid out of the county Treasury of the county; and such place shall be denominated the Poor House of said county.

To contract for houses, &amp;c.

Sec. 3. *And be it further enacted,* That whenever it shall appear to the County Court, that any person is a subject for public charity and support, he, she, or they may, if there be a Poor House in said county, order such to be conveyed to the Poor House in said county, there to be taken care of and supported at the public expense; and if there be no Poor House erected, then in that case said Judge and Commissioners shall employ some suitable person to provide for, and take care of said poor person or persons.

Persons to be sent to poor house.

Superintendent.

Sec. 4. *And be it further enacted,* That it shall be the duty of said Judge and Commissioners, to meet at the Poor House at least once in six months, or oftener, if they or a majority of them, think it necessary: the time of such meeting to be appointed by them. They shall examine the situation of the paupers, and the conduct of persons employed to take care of them; and shall have power to make such rules and regulations as to them may seem proper.

To meet at poor house.

Sec. 5. *And be it further enacted,* That at the first court to be holden by said Judge and Commissioners, after they shall have come to such determination, they shall appoint two persons in each captain's beat, who shall act as overseers of the poor, whose duty it shall be to report to each Commissioners' Court, what persons are

Overseers.

Vacancies.

within the limits of their beats, proper subjects of public support, whereupon the Court shall inquire into the facts of the case, and order them to be conveyed to the Poor House; and when vacancies occur by death, resignation, or otherwise, they shall be filled by the Judge and Commissioners.

Judge to take bond.

Sec. 6. *And be it further enacted*, That the Judge of the County Court shall take bond and good security from the persons employed to superintend the poor, conditioned for the faithful performance of their duties, in such penalties as he may require, which shall not be void on the first recovery, but may be sued on as often as the Judge and Commissioners shall be of opinion that the conditions have been violated; and the Judge and Commissioners shall have power, from time to time, to make such rules and regulations for the support of the poor at the Poor House, as to them may seem to comport with their condition, and the economy of the funds of the county.

To appropriate

Sec. 7. *And be it further enacted*, That the Judge of the County Court and Commissioners aforesaid, are hereby authorized to appropriate so much of the revenue of the county, as will be sufficient to carry this act into effect.

Approved, Feb. 4, 1840.

[No. 73.]

## AN ACT

To submit to the qualified voters of Marengo County, at the next August election, the removal of the Seat of Justice from Linden to Dayton, in said County.

Qualified voters to vote for removal.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That at the next August election, in Marengo county, all the qualified voters of said county, who shall be in favor of a removal of the Seat of Justice from Linden to Dayton in said county, shall have the privilege of writing the name of Dayton on his or their ticket or tickets; and in like manner, all who are opposed to the removal of the Seat of Justice from Linden to Dayton, shall have the privilege of writing the name of Linden on his or their ticket or tickets; and the managers of the election at the different precincts, shall make due return to the sheriff of said county, at the court-house thereof, (with the other election returns,) of the number of votes given at each of their respective precincts, for the two above named places; and the sheriff and inspectors shall carefully compare the said returns; and the sheriff shall at the same time of declaring the election of members of the Legislature, declare also which of the said places has received the highest vote.

Sheriff to certify.

Sec. 2. *And be it further enacted*, That in the event of the greater number of votes having been given to Dayton, the said sheriff forthwith certify the same to the Judge of the County Court of said county, whose duty it shall be to convene the Commissioners of roads and revenue. and the Judge and Commissioners shall forthwith cause the necessary public buildings to be erected at Dayton as speedily as practicable, and as soon as the court-house is completed, the Judge of the County Court shall give notice to the clerks of the Circuit and County Courts, to remove their books and records to Dayton, and to keep their respective offices therein.

Sec. 3. *And be it further enacted*, That with the view of relieving the said county of Marengo from direct taxation, for the purpose of defraying the expenses of the public buildings, Amos R. Manning, Richard Wooten and William Browning, are appointed Commissioners to accept donations. agents to accept for said county any donation of lands, which may be given as a donation for the erection of public buildings, or for the purpose of assisting to pay the expenses of the public buildings; and are hereby authorized to take such conditional conveyances for the securing of the same to the county in the event of the removal of the Seat of Justice from Linden to Dayton, as shall be valid in law, for that purpose; and that in like manner they are authorized to take any subscriptions of money that may be made to them, or to any of them, in aid of the public buildings, in the event or upon the condition of the removal of the Seat of Justice as aforesaid.

Sec. 4. *And be it further enacted*, That should a majority of the qualified voters have selected Dayton as the future Seat of Justice for Marengo county, the agents above named, or a majority of them, Duties, &c. shall, as soon as practicable, after the election, hand over to the Judge of the County Court, a statement of all lands given for the purposes aforesaid, together with all the bonds or title papers for the same, and all the subscription lists; whose duty it shall be to have the same entered on the records of the County Court: And the Judge of the County Court and Commissioners of roads and revenue shall have the donated lands laid off into lots, and after reserving the public square, and placing a minimum price on the said lots, upon giving forty days public notice of the day of sale, shall cause the same to be sold at public auction in Dayton, to the highest bidder.

Approved, February 4, 1840.

[No. 74.]

#### AN ACT

To authorize the erection of a Free Bridge across the Noxubee River, in Sumter county.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That William H. Hibler, Thomas Edmonson, and Robert H. Miles, be, Bridge. and they are hereby authorized to condemn one fourth acre of land on each side of the Noxubee River, in the county of Sumter, at any point between the cut off and the Mississippi line, for the purpose of erecting across said river, a free bridge: *Provided*, that if the person or persons owning said land so condemned, shall claim damages therefor, they shall apply within one month after said condemnation, to the Judge of the County Court of Sumter county, for a jury of seven freeholders, who shall assess the damages to the party complaining, and said bridge shall not be erected until said damages shall have been paid.

Sec. 2. *And be it further enacted*, That after said lands shall have been condemned, the said Commissioners shall certify to the Clerk of the County Court of Sumter county, what lands they have condemned, Commissioners to certify and to whom belonging, and said Clerk shall record the same in his office.

Approved, Feb. 5, 1840.

[No. 75.]

## AN ACT

For the relief of Theophilus L. Toulmin.

Commission-  
ers appoint'd.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That John F. Everett, Judge of the County Court of Mobile county, John Gayle, and George S. Gaines, be, and they are hereby appointed Commissioners to ascertain and investigate the circumstances attending the escape of William P. McGrew, who was a prisoner in the jail of Mobile county, indicted for murder.

To investi-  
gate, &c.

Sec. 2. *And be it further enacted,* That after such investigation, if the said Commissioners shall determine that said escape was made without any negligence on the part of the Sheriff of said county of Mobile, and that the reward which was offered for the apprehension of said fugitive, was actually paid by the said Theophilus L. Toulmin, then Sheriff of said county, they shall certify the same to the Comptroller of Public Accounts, with the amount thereof, or any part thereof which they may think it just and reasonable to refund to said Theophilus L. Toulmin, and the Comptroller shall thereupon issue his warrant for the sum allowed by said Commissioners, in favour of said Toulmin, to be paid out of any money in the Treasury not otherwise appropriated: *Provided,* the amount allowed by said Commissioners shall not exceed the sum of four hundred dollars.

Proviso.

Approved, Feb. 4, 1840.

[No. 76.]

## AN ACT

To extend the Charter of the Madison Turnpike Company.

Charter ex-  
tended.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Madison Turnpike Company, be allowed the term of ten years, for the completion of the road mentioned in their charter, from Huntsville, west, to the forks of the road leading to Brown's Ferry and Athens, any thing in their charter or law, to the contrary notwithstanding.

Approved, Feb. 1, 1840.

[No. 77.]

## AN ACT

To repeal in part an act to organize an additional Brigade, and for other purposes.

21st Brigade.

17th Brigade.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the counties of Macon and Russell, shall constitute and form the twenty-first Brigade of Alabama Militia, attached to the fifth division; the counties of Coosa, Chambers, and Tallapoosa, to constitute and form the seventeenth Brigade of Alabama Militia, attached to the eighth division; and the county of Randolph, to be attached to the sixteenth Brigade and eighth division of Alabama Militia.

Sec. 2. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 78.]

## AN ACT

To alter the mode of Collecting and Assessing the Taxes for Marion and Walker counties.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be the duty of the Judge of the County Court for the said counties, to commission one of the justices of the peace in each beat in their respective counties, whose duty it shall be to advertise in the same way and manner, and under the same rules and regulations as are now prescribed by law, that he is authorized to assess the taxes of that beat. Justice of the Peace to assess taxes.

Sec. 2. *And be it further enacted,* That it shall be the duty of the Judge of the said counties respectively, to transmit to each of the justices so commissioned, on or by the first day of April, a list of the property subject to taxation by the laws of this State. List of property.

Sec. 3. *And be it further enacted,* That if any beat should be without a regularly qualified justice of the peace, it shall be the duty of the Sheriff of the county to proceed, in person, or by deputy, to assess the taxes of such beat, in the manner pointed out by this act. Sheriff to assess, &c.

Sec. 4. *And be it further enacted,* That if any person or persons should fail to appear according to the requirements of this act, and render a true statement of his or her taxable property, said justice or assessor is hereby authorized and required to institute summary process against the property or person of such delinquent, and make or cause to be made, a sum double the amount of his or her supposed taxes, together with the costs of suit. On failing to give in tax.

Sec. 5. *And be it further enacted,* That the said justices or assessors, be, and they are hereby required to make out two separate books of assessment, one of which they shall return to the clerk of the county court, and the other to the Sheriff of the county, on or before the first day of July, in each year. Assessors to make out books.

Sec. 6. *And be it further enacted,* That if any justice commissioned by the Judge as aforesaid, should fail to do his duty, as pointed out in this act, he shall be deemed and held responsible for the full amount of the taxes due from his beat: *Provided,* That nothing contained in this act shall be so construed, as to prevent such delinquent justice or assessor from rendering a legal excuse for such failure. Failure to act &c.  
Proviso.

Sec. 7. *And be it further enacted,* That the Sheriff of the county shall consolidate the different assessment books, as returned by the assessors of the several beats, and proceed to collect the taxes so assessed, in the same manner as is now required by law, for which services he shall not hereafter receive more than five per cent. on the amount collected. Sheriff to consolidate.

Sec. 8. *And be it further enacted,* That the assessors, authorized by the first section of this act, shall receive for their services, five per cent. on the amount they assess; and the Sheriff is hereby authorized to pay the same out of any money that he may have col- Assessor's to receive 5 per cent.

lected, on the warrant of the Judge of the county court, authorizing him to do so.

Repeal.

Sec. 9. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 4, 1849.

[No. 79.]

# AN ACT

To amend an act therein named, approved. January 13th, 1827.

Preamble.

Whereas, the General Assembly of the State of Alabama, on the 13th day of January, 1827, passed an act entitled an act to emancipate certain slaves therein named, for the purpose of legalizing the emancipation of sundry persons of color, residing below the thirty-first degree of north latitude, and descendants of the ancient Creole population of Florida; reciting that this description of persons would have been entitled to this privilege, under the Spanish Government, of which they were native subjects; and which act, in order to enable Auguste Lacoste to execute and fulfill the provisions of the last will and testament of his mother, Euphrase Lacoste, did, among others, emancipate and forever free from slavery and bondage, a negro slave named Marie, and her three children, named Celine, John Baptiste, and Alexander; and requiring the said Auguste Lacoste, to enter into bond, that said negroes should not become a public charge to the State, or to any county, city or town thereof; and whereas, it appears that the said Auguste Lacoste, did in his life time, either through negligence or inability, fail to give such bond and security as would be accepted by the Judge of the County Court of Mobile county, and hath lately deceased, without performing the duty in said act prescribed; now therefore,

Marie and her three children to give bond.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the said negroes, Marie, and her said three children, named Celine, John Baptiste, and Alexander, (or the survivors of them,) in order to entitle them to the benefits of the said act of January 13th, 1827, by which they were declared emancipated, be, and they are hereby required to enter into bond, by their guardian, agent, or next friend, with good and sufficient security, in the penal sum of two thousand dollars, to be approved by the Judge of the county court of Mobile county, and filed in the office of the clerk of said court; which bond shall be made payable to the Governor of the State of Alabama, for the time being and his successors in office; and conditioned, that the said negro woman Marie, and her said three children, Celine, John Baptiste, and Alexander, or such of them as may be living at the time of executing said bond, shall not become a public charge to the State of Alabama, or to any county, city, or town thereof.

Sec. 2. *And be it further enacted*, That the bond given agreeably to the provisions of this act, shall in all respects stand in the place of, and be as effectual as, the bond prescribed in the act to which this is an amendment.

Approved, Feb. 5, 1840.

[No. 80.]

## AN ACT

To abolish certain Election Precincts in Jackson and DeKalb Counties, and establish one in Jackson County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the election precinct at Hamilton's in Bennet's Cove, in the county of Jackson, be, and the same is hereby abolished, and in lieu thereof, one be established at Caperton's Store, at the Beech Grove, in said county. Election precincts abolished and established.

Sec. 2. *And be it further enacted,* That the election precinct at the house of Daniel Clayton, in DeKalb county, be, and the same is hereby abolished.

Approved, Feb. 4, 1840.

[No. 81.]

## AN ACT

To change the names of John and Hannah Thompson, and to make them the lawful heirs of James and Jane Daniel, of Walker County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the names of John Thompson and Hannah Thompson, shall be changed to, and called by the name of John Daniel and Hannah Daniel. Names changed.

Sec. 2. *And be it further enacted,* That the said John Daniel and Hannah Daniel, are hereby made the lawful heirs of James Daniel and Jane Daniel, his wife, who reside in Walker county, State of Alabama, and they shall be entitled to inherit their property, both real and personal, as fully as if they were their own children, and born in lawful wedlock. Made lawful heirs.

Approved, Jan. 31, 1840.

[No. 82.]

## AN ACT

To amend the Laws for the Collection of Taxes in the County of Marengo.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That at the first term of the County Court, for the county of Marengo, it shall be the duty of the Judge of the County Court, and Commissioners of Roads and Revenue for said county, to appoint one of the Justices of the Peace, in every beat in said county, (or some other competent person) to assess all the property subject to taxation, in their respective beats, according to the laws now in force: *Provided,* Judge to appoint assessor. *however,* That in the absence of the Judge, the Commissioners of Roads and Revenue shall have power to make the above appointment, or in the absence of said Commissioners, the Judge shall have like power. Proviso.

Sec. 2. *And be it further enacted,* That it shall be the duty of the Justices, or persons so appointed, to proceed to assess all the property, liable and subject to taxation within the beat, for which he is appointed, with the names of all and every person owning such property or who are liable to taxation under the existing laws. Duties of Assessor,

Sec. 3. *And be it further enacted,* That the Assessors of Taxes, appointed as above, shall, on or before the first Monday in September, in each and every year, make out a list of all taxable property, List of property, &c.



in a book kept for that purpose, together with the names of all persons subject to taxation, in alphabetical order, with the amount due from each and every person and return the same duly certified, to the Clerk of the County Court of said county, on or before the time above designated.

To give bond. Sec. 4. *And be it further enacted*, That the persons appointed Assessors as above, before they enter on their duties, shall give bond and security in the sum of five hundred dollars, conditioned faithfully to discharge the duties of their office, and shall take an oath to perform the same to the best of his ability.

Vacancies. Sec. 5. *And be it further enacted*, That should a vacancy occur in any beat, by death, resignation, refusal to act, or other cause, the Judge of the County Court, alone in vacation, or jointly with the Commissioners of Roads and Revenne, may supply said vacancy.

To receive 5 per cent. Sec. 6. *And be it further enacted*, That the said Assessors shall receive for their services respectively, five per cent. on the amount assessed, payable out of the County Treasury, upon the certificate of the Clerk, that the said Assessor has made due return of his book of assessment, which certificate shall express the amount of such assessment.

How regulated. Sec. 7. *And be it further enacted*, That the different persons appointed under the provisions of this act as Assessors, shall be regulated and governed by the laws now in force: *Provided, however*, That if any person shall fail to give in a list of his, her, or their taxable property, on or before the first Monday in August, in each and every year, he, she, or they so failing, shall be liable to double taxes.

Clerk's duty. Sec. 8. *And be it further enacted*, That it shall be the duty of the Clerk of the County Court of said county, by the first Monday in October, in each and every year, to consolidate the returns of all the Assessors in the county, in a book to be prepared by him for that purpose, and make two copies thereof, one of which he shall deliver to the County Treasurer, and the other he shall furnish the Tax Collector, and take their receipts for the same, which he shall file in his office; and for these services, he shall be entitled to a fee of sixteen dollars, to be paid out of the Treasury of the County, on exhibiting both the receipts to the Treasurer.

Sheriff to be tax collector. Sec. 9. *And be it further enacted*, That the Tax Collector, who shall be the Sheriff, as now provided by law, shall proceed to collect all taxes as assessed, and make due returns of all moneys by him collected: *Provided*, That it shall not be the duty of the Tax Collector to collect and pay over the amount of taxes by him collected, until the first Monday in March, in each and every year, succeeding the year in which said taxes may have been assessed: *Provided, further*, That upon settlement with the County Treasurer, said Tax Collector shall be allowed five per cent. on the amount by him actually collected and paid over.

Failure to collect, &c. Sec. 10. *And be it further enacted*, That should the Clerk of the County Court, or the Assessor or Collector, fail to perform any of the duties required, in addition to their liabilities now prescribed by law, shall forfeit the sum of five hundred dollars, to be recovered on motion, in any court of record, in the name of the Treasurer, for the



use of the county, upon five days notice to such Collector, Clerk or Assessor of such motion.

Sec. 11. *And be it further enacted*, That the books of assessment herein required to be made out, shall have the force and effect Books. of executions, and sums due thereon, shall be collected accordingly.

Sec. 12. *And be it further enacted*, That the provisions of this act shall take effect, and be in force from and after the first day of January next, and all laws contravening the provisions of this act, Law to have effect. be hereby repealed.

Sec. 13. *And be it further enacted*, That if at any time hereafter, there should be a State tax, it shall be the duty of the Clerk to file a copy of the books of assessment in the Comptroller's office, for which State tax. he shall be entitled to a fee of eight dollars; and said State tax shall be collected in the same manner as county taxes.

Approved, Feb. 1, 1840.

[No. 83.]

### AN ACT

To Incorporate the Abby Guards, in the County of Henry.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Abby Guards, in the County of Henry, be, and they are hereby declared to be a body politic and corporate, by the name and Name and style. style of the Abby Guards: *Provided*, That they shall muster at least four times in each year, and be subject to Regimental and Battalion musters, and all other duties required by law of Volunteer Companies.

Sec. 2. *And be it further enacted*, That the said Abby Guards are hereby authorized to adopt and continue their present constitution and by-laws, or adopt any other constitution and by-laws for their own government, not contrary to the constitution of this State or of the United States, which shall be obligatory on the members of said company until repealed. Powers.

Sec. 3. *And be it further enacted*, That said company shall consist of not less than forty nor more than sixty-four members, and the officers of said company, shall be one Captain, three Lieutenants, four Sergeants, and four Corporals, and the members of the said company shall, at all times, be subject to patrol duty, according to the laws of this State. Number of privates.

Approved, Feb. 3, 1840.

[No. 84.]

### AN ACT

To regulate the times and places of holding Musters in the seventy-third. Regiment of Alabama Militia.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter the Regimental review and training, in the seventy-third Regiment of Alabama Militia, shall take place at White Plains, on the first Thursday in October in each and every year; and on the Tuesday and Wednesday, immediately preceding said review, the commissioned officers of said Regiment shall attend for drill, Regimental reviews when held.

under the superintendence of the Colonel commanding said Regiment: *Provided*, That before such drill musters be ordered the consent of a majority of the commissioned officers of said Regiment shall be first obtained.

Battalion  
trainings.

Sec. 2. *And be it further enacted*, That hereafter Battalion trainings in said Regiment, shall be holden at the times and places following, to wit: the second Battalion on the first Tuesday in May, at Ladiga; the first Battalion on the Thursday thereafter, at Rodan's Spring; and the third Battalion on the Saturday thereafter, at the house of Joseph Dupruze: *Provided*, That at the next Battalion training for the third Battalion, the vote shall be taken, and the place then selected by a majority shall be the permanent place for holding said Battalion musters; and the commissioned and non-commissioned officers, attached to each Battalion, shall attend at their several places of muster, on the day previous to their respective trainings for drill, which shall be conducted by the commandant of the Battalion.

Approved, Feb. 3, 1840.

[No. 85.]

## AN ACT

To Incorporate the Village of Robinson, in the County of Autauga.

Body politic.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That William Wyatt, George C. Ball, Edward S. Dargan, Albert J. Pickett, James Walsh and John A. Snodgrass, be, and they are hereby appointed Commissioners for the village of Robinson, in the county of Autauga, and they or a majority of them, shall have full power and authority to pass all by-laws, which may be necessary for the government of the same; and inflict or impose such fines, penalties and forfeitures, and to do such other corporate acts, as in their judgment shall conduce to the interest, good order, and government of the said village, and for the prevention of vice and immorality: *Provided*, Such by-laws and regulations be not repugnant to the constitution and laws of this State.

Proviso.

Corporate  
limits.

Sec. 2. *And be it further enacted*, That the corporate limits of said village shall extend to, and embrace all of the North West quarter of section twenty eight, township eighteen, and range seventeen, in Autauga county, which is now laid off as the limits of said village.

Term of of-  
fice.—Elec-  
tion.

Sec. 3. *And be it further enacted*, That the aforesaid Commissioners shall remain and continue in office until the first Monday in June, A. D. 1841, at which time an election shall be held in said village, and at the same place, on the first Monday in June every year thereafter, for Commissioners for the year succeeding each election, at which said election, one justice of the peace and two freeholders, are authorized and required to preside; and all persons residing within the corporate limits of said village, shall be entitled to vote for said Commissioners.

Vacancies.

Sec. 4. *And be it further enacted*, That if a vacancy should occur by death, resignation or otherwise, a majority of said Commissioners are hereby authorized to fill all such vacancies.

*Sec. 5. And be it further enacted,* That it shall not be lawful for any person or persons, within the corporate limits of said village, to retail ardent spirits of any kind, without first obtaining from the Commissioners of said village, a license for that purpose. Not to retail liquors.

Approved, February 5, 1840.

[No. 86.]

### AN ACT

To appoint Commissioners to superintend the Sale of Lots, in the Town of Marshall, in the County of Marshall, and for other purposes.

*Section 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That John M. Tate, John Baker, Samuel Lowery, James Leagan, Wm. Wellborn, John Starns and Edward Cox, and their successors, be, and they are hereby appointed and constituted a Board of Commissioners, for the county seat of Marshall county, a majority of whom shall be competent to transact business; and they may choose out of their own body a chairman, secretary and treasurer, and pass such rules and by-laws, not repugnant to the constitution and laws of this State, for their government, as they may from time to time, deem fit. Commissioners appointed

*Sec. 2. And be it further enacted,* That said Commissioners shall, so soon as they may deem proper, appoint a practical surveyor to lay off said town into lots, according to such plan as they or a majority of them, shall agree upon; and so soon thereafter as they may deem advisable, proceed to sell to the highest bidder, at the court house door in said county, any number of lots as they may deem advisable, giving at least twenty days previous notice of the day and place of such sale, and length of credit to be given; which shall in no case exceed three years from and after the day of said sale, taking therefor the purchaser's bond, with approved security, payable to the judge of the County Court for said county, and his successors in office. To appoint Surveyor.

*Sec. 3. And be it further enacted,* That the said Commissioners shall, on or before the Commissioners Court for said county next succeeding of the sale of said lots, surrender into the hands of the County Treasurer, all the notes, papers and vouchers, of whatever kind, or by whatever name called, for the purchase money of the lots of said county seat, which may be, or of right ought to be in their hands, taking therefor said treasurer's receipt, which receipt shall be a good and sufficient indemnity to said Commissioners. Commissioners to deliver papers, &c.

*Sec. 4. And be it further enacted,* That the said Board of Commissioners shall, at the succeeding term of the Commissioners Court for said county, after sales aforesaid, make a fair, full, true and perfect account and settlement of all matters and things, that may be done and transacted by said Commissioners up to that time, with the Commissioners Court aforesaid, and of all the moneys by them had and received, paid out, disbursed and expended, &c.; and it shall be the duty of said Court to allow said Board of Commissioners such compensation as the said Judge of the County Court and Commissioners of roads and revenue may think reasonable; and said Commissioners shall, at the time of making said settlement, pay over to the To make report.

county treasurer, whatever balance of moneys or vouchers may be in the hands of said Commissioners, taking therefor said treasurer's receipt, which, together with said settlement, shall be made a matter of record in the office of said Commissioners Court, and the like settlements shall be made every six months thereafter, until all the lots of said town are disposed of and accounted for.

Vacancies.

Sec. 5. *And be it further enacted*, That shall any vacancy or vacancies occur in said Board of Commissioners, by neglect or refusal to act, death, resignation, removal or otherwise, it shall be lawful for the remaining ones, to fill the same by appointing others.

Titles.

Sec. 6. *And be it further enacted*, That said Board of Commissioners shall, so soon as they are authorized and empowered by law, and the terms of the sales of the lots of said county seat are complied with, make to the purchaser of any lot, a good and sufficient title to the same; and said Commissioners are hereby authorized and required to do and perform any act or acts, thing or things, that may be required or necessary, under the laws of Congress or of this State, to be done, to enable them to make titles as aforesaid.

Oath.

Sec. 7. *And be it further enacted*, That each Commissioner appointed by or under the authority of this act, shall, before entering upon the duties of his said appointment, take and subscribe to the following oath, to wit: I, A. B. do solemnly swear, or affirm, that I will well and truly do and perform all the duties of a commissioner, as required by law, so long as I remain one, to the best of my skill and ability, so help me God; which oath, to be taken and subscribed before the Judge of the County Court for said county, after being made a matter of record in the office of the clerk of said Court, shall be filed in the said clerk's office, and be by him preserved as other official papers are.

To acquire title.

Sec. 8. *And be it further enacted*, That the Commissioners aforesaid, are hereby authorized and required to acquire title to the lands upon which the said county seat is situated, not exceeding one quarter section; and they are fully authorized to use any moneys in the county treasury, to pay for the same.

Approved, February 5, 1840.

[No. 87.]

# AN ACT

To provide for the formation of an additional Brigade, to be composed of the counties of Baldwin, Clarke and Washington.

Baldwin,  
Clarke and  
Washington.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the counties of Baldwin, Clarke and Washington, shall constitute and form the twenty-second brigade of the militia of this State and shall be attached to the fourth division.

Election.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Governor, immediately after the passage of this act, to order an election for Brigadier General of said Brigade, which shall be conducted in the same manner as is now provided by law.

Approved, Feb. 5, 1840.

[No. 88.]

## AN ACT

Relative to Justices Courts, and for other purposes, in certain counties therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* Justices Courts when held. That the Courts of Justices of the Peace in the counties of Butler, Pike, Benton, Randolph, Chambers, Tallapoosa, Clarke, Jefferson, Macon, DeKalb, Cherokee, Henry and Talladega, shall be holden regularly once in each month, and at no other time, except to hear and determine rules against Constables.

Sec. 2. *And be it further enacted,* That all processes issued by a Justices of the Peace, which is not returnable to some Superior Court of law or equity, shall be returnable at the regular term of holding such Justices Courts; otherwise the same shall be utterly void: nevertheless, should any suit be instituted in any of said Courts within five days preceding the time of holding said Court, the same shall be made returnable to the second term of the Court, after the issuance thereof. Process when returnable.

Sec. 3. *And be it further enacted,* That the two Justices of the Peace in every beat, shall hold their courts at the same place and on the same day, which shall be either on the first, second, third or fourth Saturday in April next, as they may agree between themselves, and monthly thereafter; but should the said Justices fail to agree on which of the days therein mentioned, they will hold their courts then and in that case, they are hereby required to hold their said courts on the first Saturday, in April next, and monthly thereafter; nevertheless, all Justices of the Peace, shall be governed by the laws now in force as to the time and manner of holding their courts, until the period arrives for the commencement of monthly sessions, as prescribed by this act, which monthly sessions may be adjourned over to the succeeding Monday, if unfinished business makes it necessary. To be held monthly.

Sec. 4. *And be it further enacted,* That all Constable sales shall be holden at the same time and places of holding the Justices courts in the beat where the sale takes place, but if the property to be sold should be of such description as to make it inconvenient to remove the same to the place of holding the said courts, then and in such cases, the property may be sold on ten days notice at any public place in the beat, or at the residence of the defendant, if required by said defendant; and it shall be the duty of the Constables in every instance of sale, to give notice of at least ten days in writing, of such sale by advertisement at the place of holding the same, and at least one other public place in the beat: *Provided,* however, that nothing in this act, shall be so construed as to alter the mode now prescribed by law for the disposition of slaves taken by virtue of an execution, or property of a perishable nature taken by virtue of an original attachment. Constable sales held monthly.

Sec. 5. *And be it further enacted,* That such Justices courts and Constables sales shall be held at the muster ground, in the several beats, or if for want of a building at said muster ground, or other manifest inconvenience, it becomes necessary, the two Justices of the Courts and sales.

Peace and the Constable, may fix upon such other place as they may deem most proper within the limits of the beat.

Sec. 6. *And be it further,* That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 89.]

# AN ACT

To open a certain Road, therein named.

Commission-  
ers.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Thomas Price, Jonathan Burleson, George Hail, Riley S. Davis and William Reed, be, and they are hereby appointed Commissioners to view and mark out a public road, leading from James Young's Ferry, on the south side of the Tennessee river, in Morgan county, to intersect the main stage road, leading from Botelar's ferry to Somerville, in said county.

To open road.

Sec. 2. *And be it further enacted,* That said Commissioners, or a majority of them, shall have power and authority to view and mark out said road, by running down the Tennessee river, and as near the river as the ground will admit, so as to intersect the Somerville road at or near Botelar's ferry, or the said Commissioners shall have power to lay out said road, so as to run from the ferry by or near the house of William Pride, so as to intersect the stage road at or near the Poplar Spring.

Oath.

Sec. 3. *And be it further enacted,* That the said Commissioners, or a majority of them, shall before entering upon the duties prescribed by this act, take the following oath, before some Justice of the Peace in the county of Morgan, (to wit:) I ———— do solemnly swear or affirm, as the case may be, that I will faithfully discharge the duties prescribed in this act to the best of my knowledge, without favor, affection or partiality, having a due regard to the interest of private individuals and the public good, so help me God.

Damages as-  
sessed.

Sec. 4. *And be it further enacted,* That it shall be the duty of said Commissioners, or a majority of them, to assess the damages which will be sustained by the owners of the lands through which said road may run, and shall make up their award in writing to that effect, and deliver the same to the said James Young.

When paid.

Sec. 5. *And be it further enacted,* That the said James Young, shall have power and authority at any time thereafter upon the payment of the damages assessed by said Commissioners, to the proper owners of such lands, through which said road may run, enter upon and cut out said road, as marked out by said Commissioners at his own expense and put the same in good repair and order for travelling, which said road, when completed as above directed, shall remain a public road, subject to all the laws, regulations and restrictions as other public roads in the county of Morgan.

Approved, Feb. 5, 1840.

[No. 90.]

## AN ACT

Supplemental to an act entitled an act to establish a certain Road therein designated, approved, February 2, 1830.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That* no person who lives more than one mile east of said road, shall be liable or apportioned to work on said road. Work on road

Sec. 2. *And be it further enacted, That* it shall be the duty of the Commissioners Courts of the counties of Bibb and Shelby, in issuing the order to the apportioners on said road, to require them to apportion the said hands, as required by the first section of this act: *Provided*, said road shall be classed in the third grade, unless otherwise directed by the Court of Commissioners of Roads and Revenue of the counties of Bibb and Shelby, any law to the contrary notwithstanding. Provide.

Approved, Feb. 5, 1840.

[No. 91.]

## AN ACT

To authorize the Judge and Commissioners of Roads and Revenue of Baldwin county, to levy a Tax, for county purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That* the Judge and Commissioners of Roads and Revenue of Baldwin county, are hereby authorized, should they deem it necessary, to levy such a tax on the persons and property of said county, liable to taxation, as will produce an amount sufficient to repair the jail of said county. To levy tax.

Sec. 2. *And be it further enacted, That* the Judge and Commissioners of Roads and Revenue of Baldwin county, are hereby authorized to contract for the repairing said jail, on such plan as they may prescribe, and shall let the same to the lowest bidder, at such time and place as they may think proper. To contract.

Approved, Feb. 5, 1840.

[No. 92.]

## AN ACT

To provide for the payment of the Grand and Petit Jurors of the county of Shelby.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That* it shall be the duty of the Judge of the County Court of the county of Shelby, together with the Commissioners of Roads and Revenue, at their first court in each and every year, to set apart a sufficient amount of money out of the county taxes, to pay the grand and petit jurors of said county. Jurors how paid.

Sec. 2. *And be it further enacted, That* it shall be the duty of the county treasurer of said county, after the first day of January, 1841, to attend at the Court House, during the session of the circuit and county courts of said county, and when the jurors are discharged, by producing the certificate of the clerk of the circuit or county court, to the treasurer of said county, it shall be his duty to pay to said jurors the full amount of his certificate in money, and on failure of said treasurer to do so, he shall be liable to be indicted for malpractice in office, and on conviction, shall be fined in a sum not less County Treasurer's duty.



Penalty on  
failure.

than twenty, and not more than fifty dollars; and also he and his securities shall be liable to be sued before any justice of the peace having jurisdiction of the same, for the amount of the certificate presented and refused, or neglected to be paid off, according to the provisions of this act.

Sec. 3. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 93.]

#### AN ACT

To change the name of the County Seat of the County of Randolph.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Wedowee, the corporate name of the County Seat of the county of Randolph, be, and the same is hereby changed to name of McDonald, (in memory of the celebrated Sergeant McDonald;) and under this name shall enjoy and be subject to all the provisions of the act incorporating said County Seat.

Approved, February 5, 1840.

[No. 94.]

#### AN ACT

Authorizing Justices of the Peace in the City of Mobile, to hold their offices and transact business without the limits of their proper Beats.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all Justices of the Peace who have been, or shall hereafter be elected within the limits of the city of Mobile, shall and may be authorized to reside, hold their office, and transact official business, in any captain's beat within the limits of said city; any law to the contrary thereof, notwithstanding.

Approved, Feb. 4, 1840.

[No. 95.]

#### AN ACT

For the relief of William Cunningham, of the County of Benton.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That William Cunningham, of the county of Benton, shall have a right to a second or third writ of *ad quod damnum*, to establish a mill in said county, on Choccolocco creek, and that he shall have a right to erect a dam across any outlet or fork from the stream on which his mill is erected, so as to obtain the prescribed head of water.

Approved, Feb. 4, 1840.

[No. 96.]

#### AN ACT

To amend the Charter of the Cahawba and Marion Rail Road Company.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the election of the Directors of said Company shall hereafter be made on the first Monday in December, in each and every year, instead of the first Monday in January, as now provided by said charter.

Approved, Feb. 4, 1840.



[No. 97.]

## AN ACT

To divorce Tabitha Shields from her husband, Joseph Shields.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in conformity with a decree of the Chancery Court, holden in Tuscaloosa, in September, 1839, the bonds of matrimony heretofore subsisting between Tabitha Shields and her husband Joseph Shields, be, and the same are hereby dissolved and annulled; and the said Tabitha Shields be, and she is hereby divorced from her husband, Joseph Shields. Divorce.

Approved, Feb. 5, 1840.

[No. 98.]

## AN ACT

To annex Beat Company Number Three to the Twenty-Sixth Regiment of Alabama Militia.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Beat Company number three, commonly known as the Cane Creek Beat, commanded by Captain Powell, shall hereafter be attached to, and form a portion of the twenty-sixth Regiment of Alabama Militia.

Approved, Feb. 5, 1840.

[No. 99.]

## AN ACT

To repeal in part a certain act therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to incorporate the Town of Dadeville, in the county of Tallapoosa, and State of Alabama, approved, June the 30th, 1837, be, and the same is hereby repealed.

Approved, February 5, 1840.

[No. 100.]

## AN ACT

To change the time of holding the County Courts in Macon County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the above recited act, to which this is intended as a supplement, shall not take effect until the first Monday in March next.

Approved, Feb. 1, 1840.

[No. 101.]

## AN ACT

To regulate the Toll of a Steam Mill in Marshall County, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, James Barclay and Company, in the county of Marshall, shall be allowed to keep the sixth part of all the grain that they may grind on their steam mill, as toll; and the said James Barclay and Company, shall keep good water crafts, for the use of customers, to take grain across Tennessee river, any law to the contrary notwithstanding. Toll, &c.

Sec. 2. *And be it further enacted,* That the provisions of this Act shall extend to the steam mills in the county of Sumter, so far as relates to toll.

Approved, Feb. 3, 1840.

[No. 102.]

## AN ACT

To repeal so much of an act entitled an act to regulate trials before Justices of the Peace, approved December the 31st, 1830, as relates to the County of Walker.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of an act entitled an act to regulate trials before Justices of the Peace, approved December the thirty-first, eighteen hundred and thirty, as relates to the county of Walker, is hereby repealed.

Approved, Feb. 3, 1840.

[No. 103.]

## AN ACT

To attach a part of the County of Tuscaloosa to the County of Jefferson.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That that part of the county of Tuscaloosa, lying north of a line to commence at the Big Spring, at Rupe's old place, running a north-west direction to Toliver's old trace, on the dividing ridge between Shoal creek and Davis' creek, thence along said trace to the Squaw Shoals, on the Black Warrior river, be, and the same is hereby taken from the county of Tuscaloosa, and attached to, and made a part of the county of Jefferson.

Approved, Feb. 3, 1840.

[No. 104.]

## AN ACT

To change the name of a certain person therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the name of Jesse Rosa Harwell, infant daughter of Mary Ann and Henry J. Harwell, be, and the same is hereby changed to Jesse Rosa Taylor.

Approved, Feb. 3, 1840.

[No. 105.]

## AN ACT

To divide the forty-second Regiment of Alabama Militia.

42d Regiment  
divided.

37th regiment  
established.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the forty-second Regiment of the thirteenth Brigade, and fifth Division, of Alabama Militia, shall be divided and known as two Regiments; the first to be called and known as the forty-second Regiment as aforesaid, and the other to be known as the eighty-seventh Regiment of the same Brigade and Division.

Officers, &c.

Sec. 2. *And be it further enacted,* That all the commissioned officers of said forty-second Regiment, shall, on the call of the present Colonel, or highest officer in command, meet and divide said Regiment, and the said Colonel or commanding officer, shall make his return of the said Division, to the Brigadier General of said Brigade, and when the same shall be so reported, it be and remain a permanent Division of said Regiment.

Sec. 3. *And be it further enacted,* That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 3, 1840.

[No. 106.]

## AN ACT

To authorize the Judge of the County Court, and Commissioners of Roads and Revenue for the County of Lauderdale, to levy a special Tax.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Judge of the County Court of Lauderdale county, and Commissioners of Roads and Revenue, be, and they are hereby authorized and empowered to assess an additional tax, on the persons and the property of the citizens of the county of Lauderdale, of such amount as they may think necessary, for repairing the Court House and Jail in said county: *Provided,* That the amount shall not exceed twenty per cent. on the amount now allowed to be collected by law, for other county purposes; and this power shall extend from year to year, as may be required for the same. To levy tax.

Approved, Feb. 3, 1840.

[No. 107.]

## AN ACT

To divorce John Thomas from his wife Rebecca Thomas.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in accordance with the decree of the Chancellor rendered at the Spring Term of the Autauga Circuit Court, 1837, John Thomas, be, and is hereby divorced from his wife Rebecca Thomas.

Approved, Feb. 5, 1840.

[No. 108.]

## AN ACT

To regulate the Sheriff's Sales in the City of Wetumpka.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That when it becomes the duty of the Sheriff of Autauga County to advertise the sale of any property in the city of Wetumpka, the regular sale day shall be on the second Monday in each and every month, any law or custom to the contrary notwithstanding. When held.

Sec. 2. *And be it further enacted,* That when it becomes the duty of the Sheriff of Coosa County to advertise the sale of any property in the city of Wetumpka, the regular sale day shall be on the third Monday in each and every month. To advertise.

Approved, Feb. 3, 1840.

[No. 109.]

## AN ACT

To repeal an act to prohibit the establishment of a Ferry, or the erection of a Bridge across the Chattahoochee river, within a certain distance of a Bridge across said river, at Columbus, Georgia.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the act above referred to, be, and the same is hereby repealed. Repeal.

Sec. 2. *And be it further enacted,* That all laws heretofore passed, in relation to Ferries and Bridges, shall not operate so as to prevent the erection of a Bridge or the establishment of a Ferry, at any point on the Chattahoochee river, near said Bridge, across said river, at Columbus, Georgia.

Approved, Feb. 1, 1840.

[No. 110.]

## AN ACT

To authorize the conveyance of a tract of Land to Trustees of the Methodist Episcopal Church.

Trustees to  
transfer pro-  
perty.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall and may be lawful for John McVay, of the County of Jackson, to convey by deed, to William D. Parks, Thomas H. Kirby, Joseph L. Kirby, Robert Parks, Jacob Gross, John Cunningham, and Thomas J. Wood, Trustees of the Methodist Episcopal Church, the southeast quarter, of southwest quarter, of section five, in township five, of range six, east, in the Huntsville Land District; the right and title of which tract of land shall, after such conveyance, be vested in the Methodist Episcopal Church, any law to the contrary notwithstanding.

Approved, Feb. 1, 1840.

[No. 111.]

## AN ACT

To form an additional Regiment in the County of Jefferson.

Additional  
regiment  
formeu.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the boundary line, which now divides the first and second Battalions of the fifteenth Regiment of Alabama Militia, in the County of Jefferson, shall be known and designated as the boundary line between the fifteenth and eighty-eighth Regiment of Alabama Militia.

38th Regim't.

Sec. 2. *And be it further enacted,* That the second Battalion of said fifteenth Regiment as it now stands, shall be hereafter known and designated as the eighty-eighth Regiment of Alabama Militia, and all officers necessary for the organization of said Regiment, hereby required to be formed, shall, as soon as practicable thereafter, be elected and commissioned according to law.

To form com-  
pany, &c.

Sec. 3. *And be it further enacted,* That the Colonel or commanding officer of each of said Regiments, in organizing the same, shall be authorized (should he deem it necessary,) to form one Company Beat in his Regiment, with a less number than forty privates, to be officered in like manner as other beats are in said Regiment.

Approved, Feb. 3, 1840.

[No. 112.]

## AN ACT

To levy a special tax for the county of Fayette, for the purpose of repairing the Court House in said county.

Special tax.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it may be lawful for the Judge of the County Court, and Commissioners of Roads and Revenue at the May term of said court, to levy a special tax, not exceeding twenty-five per cent. on the amount collected for county purposes, for the purpose of repairing the Court House in said county.

Sheriff to col-  
lect.

Sec. 2. *And be it further enacted,* That it shall be the duty of the Sheriff of said county to collect the tax so levied, and to pay the same over to the county treasurer of said county; there to be subject to the order of said Judge and Commissioners for the purpose specified in the first section of this act.

Approved, Feb. 1, 1840.

[No. 113.]

## AN ACT

Requiring the Judge of the County Court of the County of Greene to reside at or within three miles of the Court House, of said County, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Judges of the County Courts hereafter to be elected for the counties of Greene, Lowndes, Dallas and Perry, shall reside within at least three miles of their Seats of Justice, respectively.

Approved, Feb. 5, 1840.

[No. 114.]

## AN ACT

To locate the Seat of Justice for Washington County, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the Sheriff of Washington county to advertise and hold an election on the first Monday of August next, at the different election precincts in said county, for the purpose of selecting a site for the permanent location of the Seat of Justice of said county, and shall put in nomination the three following places, viz: Washington Court House, Carrollton, (now called Barryton) and Dougherty's old place, Souwilpa creek; and if neither one of said places shall receive a majority of all the votes given for said purpose, then it shall be the duty of said sheriff to advertise and hold an election at the places and in the manner above specified, on the first Monday of October thereafter, at which election he shall put in nomination, the two places which have received the highest number of votes at said August election; and the place then receiving the greatest number of votes shall be the permanent Seat of Justice of said county.

Sheriff to hold election.

Places voted for.

Sec. 2. *And be it further enacted,* That all persons who are legally qualified to vote for a representative to the legislature at said time, in said county, shall be entitled to vote for said location; and the sheriff shall prepare a separate box at each precinct in said county, to receive said votes, and he shall within twenty days after said election, cause all the votes given for said location, to be brought together at the present court house of said county, and he shall then count the same in the presence of the Judge of the County Court of said county, or in his absence, in the presence of three respectable freeholders thereof, and declare the result of said election.

Qualification of voters.

Sec. 3. *And be it further enacted,* That Arnett W. Harvill, Daniel Coleman, Erasmus G. Collier, Philip Gaines and S. S. Scoggins, be, and they are hereby appointed commissioners; a majority of whom shall be competent to act, to lay off a town at said site as selected, and superintend the sale of lots therein, and execute titles thereto, to purchase any quantity of land therefor not exceeding forty acres, and receive deeds therefor, in the name of said county; to cause to be erected such court house, jail and other public buildings, as they may think necessary to carry into effect the provisions of this act; and they shall have power to draw such sums of money out of the county Treasury of said county as shall be necessary to carry the same into effect; and it shall be the duty of the county Treasurer

Commissioners.

to pay the same out of any money not otherwise appropriated; and said Commissioners are empowered to name said Town.

Sec. 4. *And be it further enacted*, That it shall be competent for said Commissioners to locate said court house and other public buildings, at any place within three miles of the point abovenamed, which shall be selected by the people of said county, in the manner as aforesaid.

Sec. 3. *And be it further enacted*, That after said Commissioners shall declare said court house to be complete, and in sufficient repair to accommodate the Courts of said county, it shall be the duty of the Judges of the Circuit and County Courts of said county to hold their respective Courts at the point so selected for the county site; and the clerks of said Courts shall be, and they are hereby required to keep their offices at said site, or within two miles thereof, or vacate the same; and all writs and process of every nature, returnable to either of said Courts at the place now designated by law, shall thereafter be properly and lawfully returnable to the place selected for the said county site.

Sec. 6. *And be it further enacted*, That all laws or parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 3, 1840.

[No. 115.]

#### AN ACT

For the relief of Sarah Morgan.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all the title which the State has by escheat in the real estate of Samuel Keaghy, late of Franklin county, deceased, who was an alien, be, and the same is hereby relinquished to James P. Halsey, in trust for the separate use and estate of Sarah Morgan; saving in all cases, the rights of the creditors of said deceased alien.

Approved, Feb. 5, 1840.

[No. 116.]

#### AN ACT

To incorporate the Protestant Orphan Asylum Society of the City of Mobile.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the members of the said society, ladies of the city of Mobile, and such persons as they may hereafter associate with them, be, and are hereby constituted a corporation, under the name and style of the Protestant Orphan Asylum Society; and by that name may hold real and personal estate, make contracts, and establish such a constitution and by-laws for their government, as is consistent with the terms of this act, and the constitution and laws of this State.

Sec. 2. *And be it further enacted*, That the management of the affairs of the said society, until the first Monday of December next, shall be vested in the officers of said society, who have heretofore been elected under the regulations of the said society, and on that day, or

To locate  
Court house.

Judges to  
hold court at  
new Court  
house.

Name and  
style.

Government.

such other day, as the said corporation shall appoint in each year, their successors shall be chosen, and that no officer shall be eligible to a re election; but all officers shall be chosen from the members of the said society by ballot, in regular rotation from each of the religious denominations associated for its foundation and support.

Sec. 3. *And be it further enacted*, That the said society may receive under its charge and direction, those legitimate orphans in the city of Mobile, and its vicinity, who are poor and destitute, under the age of ten years; and that for all such children as may come under their charge and control, the said society may apply to the Court of Commissioners of Roads and Revenue of said county, for such an allowance as the existing laws provide for, in favor of such orphans, and it shall be the duty of said court to grant the same. To receive Orphans.

Sec. 4. *And be it further enacted*, That the said society shall make two reports in each year to the said court, of the condition of its affairs, and of the orphans under its charge, of the amount of its receipts of moneys and of its disbursements; and that the Chancellor of the Southern Division, shall be a visiter of the said institute: *Provided*, the said allowance shall not exceed the sum of five dollars per month for each child. To make two reports. Proviso.

Approved, Feb. 5, 1840.

[No. 117.]

#### AN ACT

For the relief of Burwell Green.

Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Commissioners Court of St. Clair county, at any time after the passage of this act, are authorized to pass over unto Burwell Green, the sum of fifty dollars, as a compensation for his *ex officio* services, as Sheriff of said county, by him rendered during the last year of his term of service.

Approved, Feb. 5, 1840.

[No. 118.]

#### AN ACT

To require the Sheriff to hold an election for the purpose of taking the votes in regard to removing the Court House in the county of Monroe.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That it shall be the duty of the Sheriff of Monroe county, to hold or cause to be held an election, at the different election precincts in said county, on the first Monday in August next, which shall be held and conducted by the same managers and officers, and in the same way, with the exception made in this act, that election of members of the General Assembly are, and the said Sheriff shall give the same previous notice of the election, that he is now required to give of the election of members of the General Assembly by law; and the present site, Monroeville, shall be put in nomination, also the town of Claiborne, and one other may be put in nomination; those voting for Monroeville, will write Monroeville on their tickets, and those voting for Claiborne, will write Claiborne on their tickets, and should the peo- Sheriff to hold election. Place voted for.



ple name a third place, those wishing to vote for it will place the name on their tickets; and it shall be the duty of the officers and managers to provide and keep at each precinct a separate box, in which shall be placed the votes given upon the subject of the site of the Court House, and they shall also cause to be kept a separate list of the votes of the same, and it shall be the duty of the managers after the close of the election, to count the votes at their election precincts, and make a return of the same to the Sheriff of the county, the whole number of votes received for each place nominated; which return shall be duly certified by the managers, and sealed up and delivered to the Sheriff, within the time prescribed by law, for making returns of the elections of members of the General Assembly, and the said managers shall in addition to the oaths now required by law, take an oath, faithfully to hold and return the election specified in this act; and it shall be the duty of the Sheriff after receiving the returns from the different precincts in the county, to compare and ascertain the number of votes received for each place nominated under this act, and the place receiving the highest number of votes, he shall declare to be the seat of justice for said county of Monroe.

*Sheriff to notify Judge.* Sec. 2. *And be it further enacted,* That should it appear after casting up the votes of said county, that the present site should not be selected, then it shall be the duty of the Sheriff to notify the Judge of the County Court and Commissioners of Roads and Revenue of said county, of the site selected; whose duty it shall be to provide some suitable building, in which the courts shall be held: *Provided,* that the courts of said county shall be held at the Court house, at Monroeville, until said Judge and Commissioners shall provide some suitable house in which the courts can be holden at the new site; the expenses of which building shall be paid by the county, out of any money in the treasury not otherwise appropriated.

*Proviso.*

*Judge to give notice.* Sec. 3. *And be it further enacted,* That it shall be the duty of the Judge of the county court to give notice to the clerks and other officers of the court, to remove their books and papers to the new Court house for the purpose of holding the courts at the same, until otherwise directed by law.

Approved, Feb. 5, 1840.

[No. 119 ]

# AN ACT

To authorize the election of additional Justices of the Peace, in the County of Clarke.

*Justice to be elected.* Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Captain or other officer, authorized to order elections for Justices of the Peace, in each of the beats in the county of Clarke, be authorized and required to order the election of an additional Justice of the Peace, in each of the beats in said county.

*Three justices elected.* Sec. 2. *And be it further enacted,* That the said Captain or other officer, authorized to order elections as aforesaid, be required at the next, and each succeeding general election for Justices of the Peace, in said county, to order the election of three Justices of the Peace, for each of the beats in said county.

Approved, Feb. 3, 1840.

[No. 120.]

## AN ACT

Making it obligatory on the Clerk of the County Court and Circuit Clerk of Autauga County to settle with the County Treasurer quarterly.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the first day of March, eighteen hundred and forty, it shall be the duty of the Clerk of the County Court and Circuit Court Clerk of Autauga County, to settle with, and pay over to the Treasurer for the County aforesaid, all moneys in his hands belonging to said County, at least once in every three months. Clerk to settle with Treasurer.

Sec. 2. *And be it further enacted,* That the said Clerk shall be subject to a fine of fifty dollars, to be paid into the County Treasury, for each and every failure on his part to comply with the provisions of this act: *Provided, however,* That it shall always be the duty of the Treasurer to make a proper demand for said settlement. Penalty. Provide.

Sec. 3. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed. Approved, Feb. 5, 1840.

[No. 121.]

## AN ACT

To change the time of holding the Court of Roads and Revenue for the County of De Kalb.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That the Commissioners Court of Roads and Revenue for the County of De Kalb, be held at the Court House in said County, on the second Monday in February, one thousand eight hundred and forty; on the second Monday in May, on the first Monday in September, and on the second Monday in December, in each and every year thereafter, in lieu of the time now required by law. When held.

Sec. 2. *And be it further enacted,* That any and all acts or things, had and done by the Commissioners Court aforesaid, at any called term of said Court, in reference to the better securing and collection of any fine which may have been coming to the said County of De Kalb, be, and the same are hereby declared valid and binding to all intents and purposes. Called terms.

Sec. 3. *And be it further enacted,* That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed. Approved, Feb. 5, 1840.

[No. 122.]

## AN ACT

To enable Eunice C. Dunly to exercise and enjoy the rights and privileges of a free trader.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Eunice C. Dunly be, and she is hereby authorized and empowered to trade, and exercise all the rights, and immunities of a *feme sole*, and for that purpose she shall be, and is hereby invested with full power to buy, sell, hold and receive property, separate and distinct from that of her husband, John Dunly, and that the same shall not be made liable for Free trader.

Proviso.

any of the debts or contracts of her husband : *Provided*, That the provisions of this act, shall only apply to such property as may be hereafter acquired by the said Eunice C. Dunly, and only to contracts made subsequent to the passage of this act : *Provided*, The provisions of this act shall be confined to property exclusively acquired by the said Eunice C. Dunly's own efforts, and shall in no case prejudice the rights of existing creditors as to property she has or may have in right of her husband. Approved, Feb. 4, 1840.

[No. 123.]

## AN ACT

To divorce Henrietta Wright from her husband James Wright.

Divorce.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in conformity with a decree of the Court of Chancery, held for the sixth Chancery District, at Moulton, in and for said State, pronounced and rendered at the term of said Court, holden on the first Monday after the fourth Monday in November, eighteen hundred and thirty-nine, the bonds of matrimony heretofore solemnized and subsisting between the said Henrietta Wright and her husband James Wright, be, and they are hereby forever dissolved and made void, and that the said Henrietta Wright be henceforth divorced from her said husband James Wright. Approved, Feb. 5, 1840.

[No. 124.]

## AN ACT

To change the times of holding the Commissioners Court for the County of De Kalb, and for other purposes.

When held.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Commissioners Court of Roads and Revenue for the County of De Kalb, be holden at the Court House in said county, on the second Monday in February, one thousand eight hundred and forty ; on the second Monday in May, on the first Monday in September, and on the second Monday in December, in each and every year thereafter, in lieu of the times now required by law.

Called term.

Sec. 2. *And be it further enacted*, That any and all acts or things had and done by the Commissioners Court aforesaid, at any called term of said Court, in reference to the better securement and collection of any fine, which may have been coming to the said County of De Kalb, be, and the same are hereby declared valid and binding, to all intents and purposes.

Sec. 3. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed. Approved, Feb. 5, 1840.

[No. 125.]

## AN ACT

For the relief of William Thomas.

Preamble.

Whereas, William Thomas, on the seventeenth March, one thousand eight hundred and thirty-two, purchased of the proper School Commissioners of Butler County, for the sixteenth section of township number eleven, of range sixteen, the east half of the northwest

quarter of said sixteenth section, containing eighty-five acres, and also the southwest quarter of said section, containing one hundred and sixty acres, at and for the sum of thirty-seven dollars and sixty-two cents : And whereas, said William Thomas has made full payment of the purchase money to the School Commissioners aforesaid : And whereas, under the circumstances it is doubtful whether his Excellency the Governor, has authority to issue patents to said William Thomas for the said tracts of land ; therefore,

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That his Excellency, the Governor, be, and he is authorized to issue patents to said William Thomas for the said tracts of land, he being satisfied first, that the purchase money has been paid to the commissioners of the proper township; any law, usage or custom to the contrary notwithstanding.

Governor to  
issue patent

Approved, Feb. 1, 1840.

[No. 126.]

### AN ACT

To form two Regiments in the County of Chambers.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the sixty-ninth Regiment of the Alabama Militia in the County of Chambers, shall be divided into two regiments, in the following manner, commencing on the State line, between sections thirteen and twenty-four, in township twenty-two, and range twenty-eight, east, and thence running due west, on the line between sections thirteen and twenty-four, to the Tallapoosa County line.

69th regiment  
divided.

Sec. 2. *And be it further enacted,* That the southern Regiment in said county, shall be denominated and known as the eighty-sixth regiment of the Alabama Militia, and is hereby attached to the seventeenth Brigade and eighth Division.

86th regiment  
formed.

Sec. 3. *And be it further enacted,* That all commissioned officers, that now reside in the said eighty-sixth regiment, shall be entitled to hold their respective commands.

Officers.

Approved, Feb. 3, 1840.

[No. 127.]

### AN ACT

To provide for advertisements issuing from Orphans, Commissioners and County Courts of Dallas County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, all orders and decrees, made by the Orphans, Commissioners or County Courts of Dallas county, which may require publication in some public journal, the parties concerned, shall have the privilege of selecting the journal in which such publication shall be made: *Provided,* Such journal be published in said county, otherwise the court shall order the publication to be made in that paper, which will give the same the greatest circulation.

Compensa-  
tion of jurors.

Sec. 2. *And be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 128.]

## AN ACT

To divorce Martha Ann King from her husband John M. King.

Divorce.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That pursuant to a decree of the Chancery Court at Huntsville, in the sixth Chancery District of the Northern Chancery Division of the State of Alabama, rendered on the sixteenth day of December, in the year of our Lord one thousand eight hundred and thirty nine, the bonds of matrimony heretofore solemnized between Martha Ann King and her husband John M. King, be, and the same are hereby dissolved and annulled, and that the said Martha Ann King be henceforth divorced from her husband John M. King.

Approved, Feb. 4, 1840.

[No. 129.]

## AN ACT

To change the name of John Spence, of the county of Madison, to that of John Smith Adams, and the name of Frances Wilson, of the county of Talladega, to that of Susan Caroline Wilson.

Name changed.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the name of John Spence, of the county of Madison, be, and the same is hereby changed to that of John Smith Adams.

Lawful heir.

Sec. 2. *And be it further enacted,* That the said John Spence, be, and he is hereby made the legal heir of Smith Adams of the county of Madison, and that he be entitled to all the rights and privileges, and be capable of taking by inheritance or otherwise, any property, real or personal, which may descend to him as such.

Name changed.

Sec. 3. *And be it further enacted,* That from and after the passage of this act, the name of Frances Wilson, of the county of Talladega, be, and the same is hereby changed to that of Susan Caroline Wilson.

Approved, Feb. 3, 1840.

[No. 130.]

## AN ACT

To authorize the Commissioners of the Sixteenth Section, in Township Eighteen, of Range one, west, in the County of Sumter, to appropriate a certain portion of the School Fund of said Township, for the building of a School House.

Powers.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Joseph Patton, Roderick R. Moore, and James A. Bates, Commissioners of the sixteenth section, in township eighteen, of range one, west, in the county of Sumter, or their successors in office, be, and the same are hereby authorized and empowered, from and after the passage of this act, to take and appropriate so much of the interest that may have accrued upon the school fund in said township, as may be sufficient for the purpose of erecting a suitable house as a school house for said township: *Provided, however,* that the said commissioners or their successors, shall not appropriate the principal of said fund, or any part of the same, or the interest on said fund, which may hereafter accrue for such purpose.

Proviso:

Approved, Feb. 4, 1840.

[No. 131.]

## AN ACT

In relation to trials before Justices of the Peace in Marshall County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, so far as Marshall county is concerned, it shall not be necessary for process issued by a Justice of the Peace, to be returnable to some place either in the beat where the debt or debts were contracted; but the same may be made returnable to any place in the beat where the Justice of the Peace is suing said process may reside.

Justice not confined, &amp;c.

Approved, Feb. 4, 1840.

[No. 132.]

## AN ACT

To repeal in part an act therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of an act, approved, 22d December, 1827, as authorizes the Sheriff of Walker county, to execute precepts issued by a Justice of the Peace, be, and the same is hereby repealed, from and after the first day of March next.

Walker co'y.

Approved, Feb. 5, 1840.

[No. 133.]

## AN ACT

To abolish certain Election Precincts and establish others in lieu thereof.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That the election precinct heretofore established at Hamilton's, in Bennet's Cove, in the county of Jackson, be, and the same is hereby abolished; and in lieu thereof, one be established at Caperton's store, at the Beech Grove, in said county.

Election Precincts abolished and established.

Sec. 2. *And be it further enacted,* That the election precinct heretofore established at Catlin's old place, be, and the same is hereby abolished; and one is hereby established at the store of Catlin's and Mills, at Mount Sterling, in Washington county.

Sec. 3. *And be it further enacted,* That the precinct at the house of William Williams, in the county of Russell, be, and the same is hereby abolished; and in lieu thereof, one be established at Opilika, in said county.

Sec. 4. *And be it further enacted,* That there shall be an additional precinct at the house of William Blackburn, in the county of Macon, in township fourteen, range twenty-five, section nineteen.

Approved, Feb. 5, 1840.

[No. 134.]

## AN ACT

To increase the pay of Jurors in the County of Butler.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the Jurors for the County of Butler, who may be drawn and serve on the regular panel of Grand or Petit Jurors, shall be entitled to receive, as compensation for their services, two dollars per day, instead of the per diem pay which is now allowed by law, any usage or custom to the contrary, notwithstanding.

Pay increased.

Approved, Feb. 5, 1840.

[No. 135.]

## AN ACT

To authorize the qualified electors of Township twenty three, Range two, west, in the County of Sumter, to elect Commissioners, for said Township.

Vacancies.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That whenever any vacancy may occur, it shall be lawful for any three freeholders of township twenty three, of range two, west, in the county of Sumter, after having advertised in at least three public places in said township, to meet at some suitable place, and after being duly sworn to conduct such election as other elections in this State, they shall open a poll of election for three School Commissioners, and give a certificate of election to those that shall be elected; and if on any occasion a tie shall take place, then and in that case, the judges may decide which they will give the certificate to.

Judge to commission.

Sec. 2. *And be it further enacted,* That the Judge of the County Court shall, on the presentation of said certificate, commission them for one year from the first day of January and no longer; who when commissioned, shall have all power to act as heretofore by law.

Election.

Proviso.

Sec. 3. *And be it further enacted,*, That the election shall be held in each and every year, on the first Monday of December, or as soon thereafter as convenient: *Provided, however,* That an election may be held as early as practicable to fill vacancies for the present year.

Sec. 4. *And be it further enacted,* That the provisions of this act shall extend to township twenty two, of range two, west, and township twenty three, of range three, west, in said county, any law to the contrary notwithstanding. Approved, Feb. 5, 1840.

[No. 136.]

## AN ACT

To divide the Forty Eighth Regiment of Alabama Militia.

Brig Gen'l to detail, &amp;c.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That it shall be the duty of the Brigadier General of the ninth Brigade, fourth Division of the militia of this State, to detail a Brigade Court Martial, to convene in the city of Mobile, within three months after the passage of this act.

48th regiment

Sec. 2. *And be it further enacted,* That said Court Martial is required to divide the forty eighth Regiment of the militia of this State, and form a new Regiment of that part which is taken from the said forty eighth Regiment, to be styled and known as the eighty ninth Regiment; and the said Regiment is hereby attached and compose a part of the ninth Brigade and fourth Division of Alabama Militia.

Officers.

Sec. 3. *And be it further enacted,* That the officers of said forty eighth Regiment, shall not be required to resign or remove their residence though they may be out of or thrown into the limits of the said new Regiment, contemplated to be formed by this act.

Approved, Feb. 4, 1840.



[No. 137.]

## AN ACT

To compensate Jurors in the County of Fayette.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the grand and petit jurors who shall be drawn and summoned to attend the Circuit or County Courts of the county of Fayette, shall receive the sum of one dollar and fifty cents per day, for every day they shall attend and serve as jurors of said Court, and five cents per mile for every mile they may travel, in going to and returning from said Court. Juror's compensation.

Sec. 2. *And be it further enacted,* That tales jurors in and for said county, shall receive the sum of one dollar per day, when they shall be summoned to attend for the day, or the greater part thereof, to be paid in like manner as other jurors are now required to be by law. Tales jurors.

Sec. 3. *And be it further enacted,* That all laws contravening the provisions of this act, be, and the same are hereby repealed.

Approved, Feb. 5, 1840.

[No. 138 ]

## AN ACT

To incorporate a Male and Female Academy in the town of Macon, in Clarke County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Academies be, and the same are hereby incorporated in the town of Macon, in Clarke county, to be styled and known by the names of the Macon Male and Female Academies; and that John G. Creagh, James Savage, James H. Saint, William F. Jones, Terrell Powers, George D. Megginson, and Samuel Wilkinson, and their successors in office, be, and they are hereby declared to be a body politic and corporate by the name and style of the Trustees of the Macon Male and Female Academies; and as such shall be capable and liable in law or equity to sue and be sued, plead and be impleaded, and shall be authorized to make such by-laws and regulations as shall be necessary for the government of said Academy: *Provided,* such by-laws are not repugnant to the laws and constitution of this State and of the United States, and for that purpose may have and use a common seal, appoint such officers as they may think proper and remove the same for improper conduct or neglect of duty. Name and style.

Sec. 2. *And be it further enacted,* That the said trustees or body corporate shall be privileged to accept of and be invested with, all manner of property, either real or personal, or mixed; also, all donations, gifts, grants, privileges and immunities whatever, which may be made or granted to said institutions, or which may be hereafter conveyed or transferred to them or their successors in office, to have and to hold the same for the proper use, benefit and behoof of said Academies: *Provided,* however, that the quantity of real estate granted to the said trustees for the benefit of said Academies, shall not exceed one hundred and sixty acres of land or ten thousand dollars in property. Proviso.

**Vacancies.** Sec. 3. *And be further enacted,* That when any vacancy may occur by death, resignation or otherwise of any of the trustees of said Academies, the survivors or residue of said trustees shall fill the same in such manner as shall be pointed out by the by-laws and regulations of said corporation.

**Exempt from taxes.** Sec. 4. *And be it further enacted,* That all property owned by said trustees in their aforesaid corporate capacity shall be vested with such body corporate in perpetuity for the use of said Academies, and and shall be, and it is hereby declared free from all taxation, so long as the time shall be for the benefit of said institution.

**Majority, &c.** Sec. 5. *And be it further enacted,* That a majority of said board of trustees, shall be competent to transact all business pertaining to said corporation, and their acts shall be as valid and binding as if the whole board were present. Approved, Feb. 5, 1840.

[No. 139.]

## AN ACT

To provide for the Insurance of Houses and other buildings against damage by Fire, in the City of Mobile.

**Body politic.** Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That W. R. Hallett, M. Portier, J. B. Toulmin, John B. Hogan, Latham Hull, Lewis Judson, Joseph Hall, Arthur B. Morris, C. Milton Pope, Samuel W. Allen, Joseph E. Murrell, Thomas W. McCoy, John Bartlett, Jr. and such others as they may hereafter associate with them, according to the terms, conditions, and stipulations hereinafter set forth, are hereby created a body politic and corporate, by the name and style of "the Mutual Insurance Company of Mobile;" and by that name shall be capable of suing and being sued, in any court of law and equity in this State, and of making insurance against loss by fire, and doing all other acts to promote the objects of the said body politic, not inconsistent with the constitution and laws of this State, and of the United States.

**Name and style.** Sec. 2. *And be it further enacted,* That all and every person, or persons, who have subscribed to these presents, by him, her, or themselves, or his, her, or their attorney, or agent; and all and every person, or persons, who shall hereafter, in like manner, subscribe hereunto, or shall at any time or times hereafter, insure in or with this society; they, and also their respective executors, administrators and assigns, being allowed to be and continue as persons insuring in the same, as hereinafter is mentioned and provided, shall be taken and deemed as members thereof, to all intents and purposes; and be concluded by the covenants and agreements herein contained; and shall have and bear his, her and their proportionable part and share of all the profits and advantages, as well as of all the losses and charges arising in, from and by the same, for and during the terms in his, her, or their respective policies.

**Subscrib'rs to be members.** Sec. 3. *And be it further enacted,* That the direction and management of this society, and all the affairs thereof, from time to time, shall be entrusted with, and committed to, thirteen of the members

thereof, who shall be called the Directors of the Mutual Insurance Company of Mobile, for insuring houses and other buildings, from loss by fire; and the said Directors shall have full power and authority to act and proceed therein, as hereinafter is more particularly provided and expressed; and it is hereby provided and declared, that no Director or Directors, now chosen and appointed, or hereafter to be chosen and appointed, by virtue, and in pursuance of these presents, shall have, take, receive or be allowed, in manner whatsoever, any stipend, salary, gratuity, benefit, profit, or advantage whatsoever, for being a Director, or for his services as such, other than in common with the members of the society, and in proportion to his or their respective insurances, as hereinafter mentioned. Directors.

Sec. 4. *And be it further enacted*, That the Directors of this society shall always stand indemnified, and saved harmless by this society, for giving out and signing policies, and for all their other lawful acts, deeds, and transactions, done, performed and executed in pursuance of, and by virtue of these presents; and the stock, securities, and effects of the society, shall in the first place, be appropriated and applied, and the same is, and are hereby declared to be appropriated, to exonerate, discharge, indemnify, and save harmless, them, and every of them, from all costs, charges, damages, losses, and expenses, that shall or may happen, be incurred or arise, or which they or any of them, shall reasonably expend or sustain in, for, or concerning the trusts aforesaid. or any of them, or the execution or performance thereof; nor shall any of the said Directors be answerable for the defaults, neglects, or wrongs of the others, but responsible only, each for his own conduct. Directors to be indemnified, &c.

Sec. 5. *And be it further enacted*, That the limits of insurance shall not extend beyond the incorporated limits of the City of Mobile, and as much further as shall from time to time be agreed on at the general meetings of the society: *Provided*, That the proprietor or proprietors of all houses or buildings to be insured, that are two miles, or any greater distance, from the place where the office shall be kept, shall defray the charge of the Surveyor's journey, to survey the premises; and shall also defray the charges of the Directors journey, to estimate the loss or damage, when it shall happen; and the Directors are hereby empowered to deduct the charges out of the money due on such loss. Limits of insurance.

Sec. 6. *And be it further enacted*, That the insurance to be made by this society, shall be for such period of time as the Board of Directors shall deem expedient. Proviso.

Sec. 7. *And be it further enacted*, That the sum insured on house, kitchen, or other contiguous buildings on the same lot, may be in one policy, each building to be distinctly valued; but there shall not be insured, in one policy, a greater number of buildings than are erected on a single lot. Buildings.

Sec. 8. *And be it further enacted*, That no one building shall be insured in this society, for more than two thirds of the value thereof; and no wooden framed building shall be insured. Two-thirds value.

Articles, &c.  
not to be in-  
sured.

Sec. 9. *And be it further enacted*, That no sugar house, brew house, bake house, still house, cooper's or joiner's shop, or other house or shop, wherein any of the hazardous trades or businesses following, are carried on, to wit: Apothecaries, chemists, ship chandlers, tallow chandlers, stable keepers, inn holders, malt houses, oil and colar men; or which are used as stores for the following hazardous goods, or any of them, to wit: Hemp, flax, tallow, pitch, tar, turpentine, hay, straw and fodder, of all kinds, and corn unthreshed, shall be insured in this office, but on such terms only as shall be concluded on by special agreement with the Directors; and no policy shall be extended, or construed to extend, to the insurance of any sugar house, brew house, bake house, still house, cooper's or joiner's shop, or other house or shop wherein any of the hazardous trades or businesses above mentioned are carried on, or where any large quantities of hazardous goods before enumerated, are stored or lodged, unless the same is expressly mentioned in the policy, and a proportionable deposit paid, to be agreed on with the Directors.

Persons insu-  
ring to depo-  
sit, &c.

Sec. 10. *And be it further enacted*, That every person insuring, shall deposit in the hands of the Treasurer, as a pledge for the performance of his covenant, a certain sum, to be agreed on with the Directors, for every one hundred dollars, he shall insure, according to the greater or less hazard of the buildings on which the same is insured; which deposit money shall be returned to the person or persons so depositing the same; his, her, or their executors, administrators, or assigns, at the expiration of his, her, or their respective policies, deducting losses and incident charges only: *Provided*. And it is hereby agreed, that for the better and more certain adjusting the accounts of this society, the said deposit money shall be demanded within three months after the expiration of each respective policy; and in default of such demand, the same shall become forfeited, and be sent to the depositors for the benefit of the society.

Fay.

Sec. 11. *And be it further enacted*, That any person insuring in this society, shall pay for each policy, and other services incident thereto, such sum as may be determined upon by the Board of Directors.

Persons insu-  
ring to re-  
ceive policy.

Sec. 12. *And be it further enacted*, That all and every person, or persons, insuring in this society, shall receive one or more policy, or policies, for such insurance, under the hands and seals of three, at least, of the Directors; all of which insurances shall be esteemed good and valid, from the time the charges of insurance and deposit money shall be paid; and the person or persons insured, having duly signed, sealed and delivered this present deed of settlement; and all policies, at their respective expirations, and on return or accounting for the deposit money and profits, shall be delivered up to the society, and be cancelled.

Loss, how  
paid.

Sec. 13. *And be it further enacted*, That any loss sustained by fire, shall be paid out of the general funds of the society; and should the funds be insufficient to make good such loss, then the deficiency shall be made up by the contributions of the members, in proportion

to the amount of their respective insurances, which rate of contribution shall be determined by the Board of Directors.

Sec. 14. *And be it further enacted*, That in case any member or members of this society, shall assign or transfer his, her or their policies, such assignments or transfers shall be brought to the office and be entered within four weeks after such transfer or assignment; and on default thereof, the benefit of such transferred insurance shall be lost, and all persons to whom transfers are made, before the same are entered, shall assign and execute these presents: *Provided, nevertheless*, That such assignments or transfers may be admitted to be entered after the expiration of the said four weeks, if the Directors shall allow thereof, and not otherwise; and in that case the benefit of insurance shall not be lost. Sale of policy

Sec. 15. *And be it further enacted*, That all and every of the members of this society, who shall sustain any loss or damage by fire, shall give immediate notice thereof to the Directors, or the actuary of this society, at their office, to the end that the Directors, their officers or agents, may view, inquire into, and examine the same. Notice to be given.

Sec. 16. *And be it further enacted*, That the Directors for the time being shall, with all convenient speed, on all alarms of fire, repair to, and if possible, convene together and determine upon such methods of proceeding, as may in such case most conduce to the safety of the society, and of the public. Directors to convene.

Sec. 17. *And be it further enacted*, That any house or building, that is by means of fire destroyed from the first floor upwards, shall be deemed as demolished; and it shall be lawful for the Directors in such case, either to order the money insured thereon to be paid, within three months after the notice given of the loss as aforesaid; or to rebuild the same with all convenient speed; gilding, history, painting and carving excepted. To pay or rebuild.

Sec. 18. *And be it further enacted*, That the Directors for the time being, shall make up, and report to the general meeting, to be held on the first Monday in February yearly, the state of the office and its accounts, and ascertain and report the profits or losses which have arisen or been incurred in the preceding year. To report, &c

Sec. 19. *And be it further enacted*, That the interest and other profits arising from the stock, shall be carried to one common account, and be applied in discharging the expenses of the office, and losses by fire. Profits.

Sec. 20. *And be it further enacted*, That for the better and immediate forming and establishing this society, and providing for and securing the good and regular management of the affairs thereof, thirteen of the present subscribers hereto shall be the first Directors, and so shall be and continue to be Directors, until the first Monday in February, one thousand eight hundred and forty-one, and until others shall be duly chosen in their stead, which said present Directors and all future Directors of this society, or major part of them, shall have power, and are hereby empowered, to provide a seal for this society, and to alter the same as they shall see fit, from time to time, and when they shall deem it necessary, to take a house or room 13 subscribers to be Directors.

for an office, within the city of Mobile, at such rent or rents, for such term or terms, and under such covenants, as they shall judge meet; and also to appoint one or more clerks or book keepers, surveyors, messengers and other assistants, and their respective fees and salaries, as occasion shall require, to fix and ascertain and to take such securities from them as they shall think proper and sufficient for the due discharge of their respective trusts, offices and places; and they, the said Directors, shall and may also, from time to time, direct and order the making and giving out policies, and from time to time apply, dispose of, place out, take in, secure and improve the stock of this society, and the interest, profit and produce thereof, for answering the contingent charges of this society, and satisfying all such losses and damages as shall or may happen in or to the same; and shall and may also purchase and provide books for accounts, and all other things needful and requisite for this office, and for the affairs thereof, and carrying on the same; and the said Directors shall and may, and they are hereby empowered to suspend, displace, or remove all or any of the officers, servants or assistants above mentioned, as they shall see cause, and from time to time supply and fill up any vacancy which shall happen on the death or removal of them, or any of them, so that such displacing be agreed to by the major part at least, of all Directors, and the said Directors are hereby empowered to do, perform and execute all other acts, matters and things needful, or relating to the premises, or any of them, which they shall judge fit and reasonable, and which shall be according to the tenor and true meaning of the rules, orders and agreements, in and by these presents declared.

General meet-  
ing annually.

Sec. 21. *And be it further enacted*, That there shall be a general meeting of the members of this society, on the first Monday in February, every year, or oftener if the Directors for the time being shall think fit, or any twenty members insuring to the value of fifty thousand dollars or upwards, shall require the same, at which general meetings, all the members of the society shall have a right and liberty to be present; of which general meetings, and the matters therein intended to be moved, proposed or transacted, notice shall be given by the Directors, at least seven days before the time of such meetings, in one or more of the public newspapers, or otherwise, as they shall see fit, which general meetings shall be capable of acting and managing the affairs of the society, that shall then come before them; and they shall begin an hour at least after the time appointed for meeting, and shall choose a chairman, and after the choice of a chairman shall continue for the space of one hour at least; and if any chairman of the said general meetings, shall refuse or neglect to put or offer to the consideration and determination of the said general meetings, any question or matter which shall be then and there proposed, seconded and insisted on, then the general meeting shall, and they are hereby empowered, to choose another chairman in the room of him so refusing or neglecting as aforesaid; and all and every of the said general meetings may, and they are hereby declared to have full power and authority to consider, treat of, and determine,

concerning all or any the matters and things relating to the said society, and the support, preservation and good order thereof, and to alter and amend the present articles, and make any additional articles, which may be deemed conducive to the prosperity of the society; at all which meetings, the determination of two thirds of the members present shall be conclusive and binding on the whole society.

Sec. 22. *And be it further enacted*, That at the general meeting in February, yearly, thirteen members of this society shall be chosen, by ballot, to be Directors for the year ensuing, who shall appoint a Treasurer, by ballot, as aforesaid, the election to begin on the first day of the meeting, and to be continued, by adjournment, if necessary, as the Directors for the time being shall determine; and the Directors shall appoint two of their own body and three other members, not Directors to be judges and managers of the election, who shall, under their hands, or under the hands of the major part of them, report the names of the persons duly elected Directors to the general meeting; and when the election is finished, the general meeting may proceed to other business, and not before; W. R. Hallett, M. Porties, J. B. Toulmin, John B. Hogan, Latham Hall, Arthur B. Morris, C. Milton Pope, Lewis Judson, Joseph Hall, Samuel W. Allen, Joseph E. Murrell, Thomas W. McCoy, John Bartlett, Jr. are duly elected and are hereby declared to be the present Directors, and so shall continue to be until the first Monday in February, one thousand eight hundred and forty-one, and until other Directors are appointed and chosen in their room.

Election by  
ballot.

Sec. 23. *And be it further enacted*, That Thomas Poiney shall be the present Treasurer to this society, and so shall continue to be until the first Monday in February, one thousand eight hundred and forty one, and until another shall be chosen in his stead; which Treasurer and all future Treasurers of this society, shall have the custody of the cash, securities and purchase deeds, belonging to this society, and shall from time to time, pay, dispose of and deliver the same according to the orders and directions of the Directors, or a major part of them, and shall keep regular and fair books of accounts of all cash, securities, deeds, writings and other things by him received, or committed to his custody, and of all cash, securities, deeds, writings and other effects by him paid and delivered; and the Treasurer shall act as Actuary of the society, and shall, before he enters on the duties of his office, give such security as the Directors shall appoint and require, for the due and faithful discharge of his trusts, and to account for, and deliver up to his successor in the said office, all such moneys, securities, deeds and effects of the society, as shall have come to his hands or custody, and which shall not have been paid or delivered by the order of the Directors; which security, the Directors for the time being are hereby required to see given before any Treasurer shall enter on the duties of his office, or before he shall receive the cash or effects of the said society, and if through the default or neglect of the Directors, security is not given by the Treasurer as aforesaid, the Directors shall be accountable, and shall make good to the society all damages that may happen for want thereof, until

Treasurer.



security be given as aforesaid; and the Treasurer for the time being, shall have and receive, out of the society's stock, such compensation or other compensation, for all the moneys by him received and expended, and other duties of his office as the Directors may, from time to time, deem proper; and if by reason of death, removal, disability, or refusal longer to act, it shall become necessary to choose a new Treasurer within the year, the Directors shall proceed to the appointment of another in his stead.

Directors  
when to meet.

Sec. 24. *And be it further enacted*, That the Directors, for the time being, shall meet when, where, and as often as they shall think proper, but at least once every month, on the first Monday in each month, and being seven in number at least; they shall and may enter upon, order, direct and dispatch, all such matters and things relating to their office as shall then be and come before them, and such proceedings shall be esteemed good and valid in all the affairs and business of this society, except in such cases herein mentioned where a greater number is required; and in case any of the Directors herein mentioned and appointed, or hereafter to be elected or appointed, shall happen to die, remove out of this State, or shall refuse to act as a Director or Directors, or for the space of two calendar months wholly omit and neglect to attend to the affairs and business of the society, then, and in that case, the Directors for the time being, or seven of them at least, all agreeing, (regular and timely notice having been given to all) may elect and choose other or others, members of the society, in the room and stead of such Director or Directors, who shall die remove, or refuse or neglect to act as aforesaid, and such choice being confirmed by a second meeting or Board of Directors, the member or members so chosen shall be Director or Directors until the next general election.

Orders on  
Treasurer.

Sec. 25. *And be it further enacted*, That the orders of the major part of the Directors on the Treasurer, shall be complied with by him, for the payment or delivery of any cash or effects of the society.

Enlargement  
of insurance.

Sec. 26. *And be it further enacted*. That if any member or members of this society shall hereafter be desirous to enlarge his, her, or their first insurances, and the Directors shall judge that the house or houses or buildings insured, from improvements made since the date of such insurances, or otherwise, will bear an additional sum, that then the accounts shall be made up with such member or members, and their old policy shall be cancelled, and a new policy or policies granted for the entire sum to be ensured agreeably to the following provisions, limitations and restrictions herein before expressed.

Power to re-  
ward.

Sec. 27. *And be it further enacted*, That the Directors shall have power to reward, out of the company's stock, such as are voluntarily and particularly active in extinguishing fires in dangerous cases.

Discretionary  
power.

Sec. 28. *And be it further enacted*, That upon application made to the Directors for insuring any house or building, if from its situation or any other circumstance, it shall appear to the Directors to be more

than commonly hazardous, the Directors for the time being, shall have a discretionary power, either to enlarge the deposit money, required to be paid for insuring, or wholly to refuse insuring the same as they shall judge fit.

Sec. 29. *And be it further enacted*, That if any member of this society, shall suffer any damage, by storing gun powder in town, or breaming ships or other vessels at the wharves, occasioned by the act, assent or direction of such member, the insurance of such member, so suffering damage, shall thereupon become void. Damage.

Sec. 30. *And be it further enacted*, That to avoid inconveniences and prevent frauds, no person hereafter insuring their houses or buildings in this office, by original policies, or renewals, shall receive benefit from the same, if such house, or houses or buildings are or shall be insured in any other office. Policies.

Approved, Feb. 5, 1840.

[No. 140.]

### AN ACT

To change the time of holding the Circuit Court of Jackson county, and for other purposes therein mentioned.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Circuit Court for the county of Jackson, shall hereafter commence and be holden on the second Monday, after the fourth Monday in March and September, and may continue for the same length of time as now allowed by law. When held.

Sec. 2. *And be it further enacted*, That all writs and other process, which have been issued and made returnable to the said Circuit Court of Jackson county, on the first Monday after the fourth Monday in March next, shall be deemed and held returnable to the time herein before mentioned, for holding said court, and shall not be in any way vitiated by being made returnable on the first Monday after the fourth Monday in March, the time at which said court has been heretofore holden. Process when returnable.

Sec. 3. *And be it further enacted*, That the Circuit Court for the county of Marshall, shall hereafter commence and be holden on the fourth Monday in March and September, and may continue for two weeks, unless the business of the said court be sooner disposed of. Marshall Co. when held.

Approved, February 5, 1840.

[No. 141.]

### AN ACT

Making appropriations for the year one thousand eight hundred and forty.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the following sums of money, be, and the same are hereby appropriated out of any money in the Treasury not otherwise appropriated, to be paid to the following persons in payment of their salaries, for the year one thousand eight hundred and forty, to wit: to the Governor of the State, the sum of three thousand five hundred dollars; the Secretary of State, Comptroller of Public Ac- Appropriations for Executive officers, &c.

Appropriations for Executive Officers, Judges, &c.

counts, the State Treasurer, each, the sum of twelve hundred dollars ; the two Chancellors, each, the sum of two thousand dollars ; to the Judges of the Supreme Court, each, the sum of two thousand two hundred and fifty dollars ; to the Judges of the Circuit Courts, each, the sum of two thousand dollars ; except the Judge of the fifth Judicial Circuit, and to him, the sum of fifteen hundred dollars ; to the Attorney General, the sum of four hundred and twenty-five dollars ; to the Solicitor of the first Judicial Circuit, the sum of three hundred and fifty dollars ; to the Solicitors of other Circuits, each, the sum of two hundred and fifty dollars ; to the Quarter Master General the sum of two hundred dollars ; to the Adjutant and Inspector General, the sum of six dollars for each day he shall be in the actual discharge of official duties : *Provided*, His pay shall not exceed five hundred dollars for the year ; for the pay of the Secretary of the Senate and the principal Clerk of the House of Representatives, the sum of seven dollars per day, each, during the present session ; to the assistant Secretary of the Senate, and the assistant and Engrossing Clerks of the House of Representatives, each, the sum of five dollars per day, during the session, or their term of services ; to the Door Keepers of the Senate and House of Representatives, and Messenger of the House of Representatives, each, the sum of five dollars per day, for each day of their services during the present session ; to the Secretary of State for indexing the laws, copying the journals of both Houses of the present session of the General Assembly, preparing the whole for the press and superintending the printing thereof, the sum of three hundred dollars ; to pay the salary of the State Printer, the sum of three thousand eight hundred dollars ; to the Secretary of the Senate and Clerk of the House of Representatives, each, the sum of one hundred and fifty dollars for bringing up and completing the journals of their respective Houses and filing away and properly arranging the papers of the present session.

Sec. 2. *And be it further enacted*, That the sum of three thousand dollars be, and the same is hereby appropriated to defray the contingent expenses of the State Government, and the sum of two hundred and fifty dollars to the Comptroller of Public Accounts, for clerk hire during the past year ; and the sum of two hundred and fifty dollars to William Hawn, State Treasurer, for clerk hire or extra services performed by him, payable out of any money in the Treasury not otherwise appropriated. Approved, Feb. 5, 1840.

[No. 142.]

#### AN ACT,

Making appropriations for the payment of claims against the State.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrants upon the Treasurer in favor of the following persons, for the amounts hereafter to be specified, to be paid out of any money in the Treasury, not otherwise appropriated, viz: In favor of Horatio Philpott, for thirty dollars, for making return of

Congressional election from Morgan county; in favor of David D Dunn  
 Dunn, for eighteen dollars, for making Congressional election return  
 from Covington county; in favor of King W. Howard, for fifty dol- K W Howard  
 lars, for prosecuting a negro man slave, Dick, for horse stealing; in  
 favor of Nathaniel Self, for fifty dollars, for prosecuting Daniel Mc- Nath'l Self  
 Dowell, for horse stealing; in favor of Henry Brewer, for forty nine H Brewer  
 dollars and thirty cents, for feeding John Haskins, Andrew Falk  
 and Gaines Falk; in favor of Jesse Womack, for three hundred and J Womack  
 thirty seven and 5-100ths dollars, for feeding Francis T. Scott, Pas-  
 cal Harriss, Shelton Spencer, William Anderson, Benjamin Sims,  
 John H. Clark, Jesse C. Wallace, Garland Hinch, William Ruff,  
 Matthew Raiford, and a negro man slave, Emanuel, the property of  
 Duncan D. Alston; in favor of John M. McClanahan, for forty three J M McClan-  
 ahana  
 dollars and seventy five cents, for stationery furnished the Chancery  
 Court at Columbiana; in favor of the executors or administrators of  
 Flavel Vivion, for eleven hundred dollars, being one half the valua- Ex or Adm of  
 tion two negro boy slaves, Alfred and Austin, for murdering their Flavel Vivion  
 master, Flavel Vivion, and were both executed; in favor of John  
 H. Craddock, for thirty seven 17-100th dollars, for feeding a negro J H Craddock  
 boy slave, the property of H. T. Shackelford, for an attempt to  
 murder his master; in favor of C. C. Langdon, for publications or- C C Langdon  
 dered by the State, one hundred and ninety dollars and fifty cents;  
 in favor of Joseph Rutherford, for thirty three dollars and eighty J Rutherford  
 seven cents, for carrying Austin Tilly to the jail of Tuscaloosa and  
 back to Jasper; in favor of Mills L. Higgins, for nine dollars, for M L Higgins  
 making Congressional election return, from Marshall county.

Sec. 2. *And be it further enacted*, That the following sums be,  
 and are hereby appropriated out of any money in the Treasury not  
 otherwise appropriated, viz: in favor of David Haggalton, for two D Haggalton  
 hundred and twenty two dollars and thirteen cents; in favor of John J Heard  
 Heard, fifteen dollars, for making Congressional election return,  
 from Walker county; in favor of George W. Shipp, for ten dollars, G W Shipp  
 for feeding slave Annis; in favor of Henry Lucas, for three hundred H Lucas  
 and sixty two dollars and fifty cents, being one half the valuation of  
 a negro man slave, Charles; in favor of Allen Ray, for twenty two Allen Ray  
 dollars, for feeding negro men slaves, John, Glagon and Dave; in  
 in favor of Joseph Rutherford, for fifty four dollars, for keeping John J Rutherford  
 Jones; in favor of Joiner Gentry, for one hundred and eighteen dol- Joiner Gentry  
 lars and eighty cents, for feeding Samuel Faris and Jesse J. Allen;  
 in favor of Watkins and Sellers, thirty seven dollars and seventy Watkins and  
 eight cents, for cloth for tents, making, &c.; in favor of Jacob D. JD Shelly  
 Shelly, for cloth for tent, making, &c. five dollars and fifty cents;  
 in favor of John Atkins, one hundred and twenty eight dollars, for J Atkins  
 feeding John Foster, Michael Matthews and Joseph Wisherd; in  
 favor of John M. Burgen, for fifty dollars, for prosecuting two ne- J M Burgen  
 gro men slaves, for murdering their mistress and two children, to  
 conviction.

Approved, Jan. 27, 1840.

[No. 143.]

## AN ACT

Making appropriations for the payment of certain claims against the State.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrant on the Treasurer in favor of the following persons, for the amounts hereinafter specified, to be paid out of any money in the Treasury not otherwise appropriated, to wit: in favor of James Savage, Jailor of Clarke County, the sum of two hundred and twelve dollars and forty cents, for victualing sundry State prisoners; in favor of Joseph Rutherford, Sheriff of Walker County, the sum of three hundred and forty-two dollars and sixty-two cents, for conveying A. Tilley, P. Jones, and William Warren, State prisoners, from Walker Court House to Tuscaloosa Jail; in favor of David S. Hutto, Sheriff of Henry County and others, the sum of three hundred and seventy-eight dollars, for removing Michael Matthews to and from Chambers County, on a change of venue; in favor of Thomas A. Heard and William Loller, Jr. the sum of thirty-seven dollars and six cents, for removing John Jones, from Walker Court House to Tuscaloosa; in favor of William Loveless, Jailor of Barbour County, the sum of four hundred and eleven dollars and sixty cents, for boarding sundry prisoners; in favor of Robert T. White and George W. Edwards, the sum of forty-four dollars, each, for removing George Sheppard to and from Chambers County Jail; in favor of Dixon Hestle, Jailor of Monroe County, the sum of eighty dollars and forty cents, for boarding sundry prisoners; in favor of Nicholas Alley, Jailor of Fayette County, the sum of sixty dollars and eighty cents, for boarding William Williams; in favor of James M. Edwards, the sum of thirty-six dollars for distributing the laws of the United States; in favor of Charles Lewin, the sum of fifty dollars, for the rent of a house as an arsenal; in favor of Jonathan Kenady, Jailor of Wilcox County, the sum of one hundred and fifteen dollars and twenty cents, for boarding John B. Peoples and John G. Wisdom; in favor of J. F. & W. Cocke, Jailor of Perry County, the sum of one hundred and ninety-three dollars and sixty cents, for boarding L. Lany, James Cates, A. King, Dawson Joab Abner, Jones Hunly, F. Myers Toy and a slave; in favor of the administrators of J. E. M. Logan, late Sheriff of Coosa County, the sum of sixty-one dollars and seventy-seven cents, for removing Toliver Golden and Thomas Williams, from Montgomery to Rochford, and Golden from Rochford to Tallapoosa County, on a change of venue; in favor of Burwell Green, late Sheriff of St. Clair County, the sum of twenty-six dollars and eighty cents, for boarding various persons; in favor of Samuel Whaugh and James Russel, administrators of the estate of John A. Russel, deceased, the sum of five hundred dollars, being one half the assessed value of a slave (Dick) executed under sentence of the law; in favor of William Baker, Jailor of Shelby County, the sum of twenty-four dollars and eighty cents, for boarding sundry persons; in favor of the estate of Herbert T. Shackelford deceased, the sum of five hundred dollars, being one half the assessed value of a slave

(Anthony) executed under sentence of the law ; in favor of William Blythe, former Sheriff of Talladega County, the sum of twenty-six dollars for making Congressional returns in eighteen hundred and thirty-six and eighteen hundred and thirty-seven ; in favor of William P. Merriwether, Sheriff of Macon County, the sum of sixty-four dollars and eighty-five cents, for removing Alfred Abercrombie from Montgomery County on a change of venue, and making Congressional returns ; in favor of Erasmus H. Garland, former Sheriff of Henry County, the sum of ninety-one dollars and thirty-one cents, for removing William B. Thomas and Sampson Ward, to and from Montgomery Jail ; in favor of John F. Nabors, Sheriff of Pickens County, the sum of one hundred and forty-five dollars and eighty cents, for removing McGrew and Gerald, to and from Tuscaloosa Jail, and boarding the same ; in favor of George R. Evans, Register in Chancery, the sum of thirty dollars and thirty-eight cents, for writing desk, book case and stationery ; in favor of Solomon Perteete, the sum of forty-two dollars and seventy-five cents, for repairing and setting grates and glass in the State House ; in favor of A. R. Thomas, the sum of ninety dollars, for taking care of the Senate chamber and clerks rooms ; in favor of William M. Lacy, the sum of one hundred and forty-three dollars and sixty-one cents, for candles, wafers, brooms, &c. for the use of the Senate and House of Representatives ; in favor of Samuel Stephens, Jailor of Franklin County, the sum of one hundred and fifty-four dollars and ten cents, for boarding sundry persons ; in favor of William Magee, Sheriff of Mobile County, the sum of three thousand eight hundred and ninety-two dollars and twenty cents, for boarding various persons, &c. ; in favor of A. R. Thomas, the sum of twenty dollars, for illuminating the Capitol ; in favor of J. Lacy & Co., the sum of nine dollars, for knives and paper.

Wm Blythe

W P Merriwether.

E H Garland

J F Nabors

G R Evans

S Perteete

A R Thomas

W M Lacy

S Stephens

Wm Magee

A R Thomas

J Lacy &amp; Co

Sec. 2. *And be it further enacted*, That the sum of twenty-eight dollars and eighty-three cents, be, and the same is hereby appropriated out of any money in the Treasury, not otherwise appropriated, and the Comptroller of Public Accounts shall draw his warrant for the same, in favor of Green P. Rice, President of the Senate, for postage on documents in relation to the contested election from Sumter.

G P Rice

Sec. 3. *And be it further enacted*, That the further sum of eighty-six dollars and seventy-five cents, is hereby appropriated, in addition to the sum named in the first section, to David S. Hutto, Sheriff of Henry County and others, for the services therein named.

D Hutto and others.

Approved, Feb. 3, 1840.

[No. 144]

## AN ACT

Making Appropriations for the payment of certain claims against the State of Alabama

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrants on the Treasurer, in favor of the following persons hereinafter specified, to be paid out of any money in the



J Atkins	Treasury not otherwise appropriated, viz: In favor of John Atkins, for one hundred and sixty-one dollars and fifty cents, for feeding Henry Lucas, John Harriss, John Phillips, Cornelius Elwell, Isaac Jordon, George Shepperd, James Dean and John Falkner; in favor
A C Lewis	of Alfred C. Lewis, for one hundred and eleven dollars and twenty cents, for feeding Samuel K. Samples, Toliver Golden, Thomas Pardue, Kenion H. Mooney, Walter Billingslea and Howell; in favor
A Ray	of Allen Ray, for thirty-five dollars and fifty cents. for feeding Suleman D. White; in favor of Lyman Gibbins, sixty dollars, for prosecuting six slaves; in favor of William Smith, nine dollars and twenty-five cents, for making return of Congressional election; in favor of
L Gibbins	William Wilkins, for fifteen dollars, for making return of Congressional election; in favor of Charles W. Wilkins, for twenty-seven dol-
W Smith	lars and fifty cents, for making return of Congressional election, and for bringing J. P. Megan, from Mobile to Baldwin county, summon-
W Wilkins	ing witnesses, attending on trial, &c.; in favor of John Boling, for six
C W Wilkins	hundred dollars, the one half of the valuation of a negro boy, Charles, who was executed; in favor of James Chestney, for two hundred and
J Boling	forty dollars, for his services as clerk for the Supreme Court Judges, in drafting the Penitentiary code and by-laws; in favor of James
J Chestney	Odell, for one hundred and ninety-two dollars and thirty-five cents, for feeding Ransom Thornton, Mark Thornton, negro men slaves, charged with murder and Thomas S. Moore; in favor of Thomas
J Odell	Redus, twelve dollars, for executing sentence on Ransom Thornton and whipping Thomas S. Moore; in favor of Thomas B. Windham, for one hundred and two dollars and seventy cents, for feeding An-
T Redus	nis, Charles, two slaves, and Preston Brook, also making return of Congressional election; in favor of Allen Ray, for one hundred and thir-
T B Windham	ty three dollars and twenty cents, for feeding Aldridge and Edward Y. Hance; in favor of Walter L. Coleman, for forty-seven dollars, for
A Ray	books and stationery furnished the Chancery Court at Montgomery; in favor of Walter Smith, for one hundred and seventy-five dollars
W L Coleman	and fifty cents, for advertising as ordered by the Secretary of State; in favor of Alexander Bratton, for forty-eight dollars and ninety
W Smith	cents, for feeding, guarding, &c. Jonathan Gray; in favor of Walter H. Waites, for seventy-five dollars, for distributing the acts of Con-
A Bratton.	gress, as ordered by the Secretary of State; in favor of Burwell W. Hodges, for twenty-one dollars, for making return of Congressional
W H Waites	election from Pike county; in favor of Charles Corlew, for twenty-one dollars, for making Congressional election return from Tallade-
B W Hodges	ga county; in favor of John Love, for seventy-one dollars and twen-
C Corlew	ty cents, for feeding James Wilson; in favor of J. W. Huey & Co. for one hundred and seventy-one dollars and twenty-five cents, for
J Love	books and stationery furnished the Chancery Court at Talladega; in favor of William Acklin, for prosecuting a slave, ten dollars; in
J W Huey & Co.	favor of J. Caleb Wiley, for forty-nine dollars, for books and stationery furnished the Chancery Court at Clayton; in favor of D. H. Val-
W Acklin	liant, for seventy-two dollars and twenty-five cents, for feeding and
J C Wiley	
D H Valliant	



change of venue of a negro man slave, Granderson; in favor of Richard Lyon, for ten dollars, for prosecuting a negro woman slave Annis. R Lyon

Sec. 2. *And be it further enacted*, That the several amounts appropriated in the foregoing section for books and stationery for the use of chancery courts or the Register thereof, shall be paid out of the county treasury of the county in which the chancery court is held and not out of the State Treasury, any thing in the foregoing act to the contrary notwithstanding.

Approved, Jan. 31, 1840.

[No. 145.]

### AN ACT

Making appropriations for the payment of certain claims against the State.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrants on the Treasurer in favor of the following persons, for the amounts hereinafter specified, to be paid out of any money in the Treasury not otherwise appropriated, viz: in favor of Joseph W. Pearce J W Pearce the sum of eight dollars, for setting two grates in Secretary's Office; in favor of A. R. Thomas, Doorkeeper of the Senate, A R Thomas the sum of ten dollars, for fuel furnished the present General Assembly; in favor of Augustin Lynch, the sum of seventy-one dollars and A Lynch eight cents for furniture, &c. furnished the present General Assembly; in favor of W. M. Lacy, the sum of forty-one dollars, for candles W M Lacy furnished for the use of the present General Assembly; in favor of H. Perkins H Perkins the sum of eight dollars, for making one new grate for Secretary of the Senate's room; in favor of William Kain, the sum of Wm Kain fifty dollars, for prosecuting William Rite, to conviction for horse stealing; in favor of Benjamin C. Yancy, Register of the Chancery Court B C Yancy at Cahawba, for the third district, the sum of sixty-two dollars, for blank books furnished said office; in favor of Joel White, the sum of Joel White twenty-two hundred and eighty-four dollars and twenty-two cents, for books and stationery furnished the General Assembly, Chancery Courts, Supreme Court, and other officers of the State.

Approved, February 5, 1840.

[No. 146.]

### AN ACT

Making Appropriations to certain persons therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrants on the Treasurer, in favor of the following persons, for the amounts hereinafter specified, to be paid out of any money in the Treasury not otherwise appropriated, to wit: James H. Owen Jas H Owen fifty-seven dollars thirty eight cents, for whitewashing the interior of the Capitol, carpeting, &c.; Oliver Quinn, Oliver Quinn nine dollars, for making Congressional election return in 1839, from Bibb county ;

S D Cabinniss	S. D. Cabaniss, forty dollars and six cents, for stationery for the Chan-
R Murphy	cery Court at Huntsville; Richard Murphy, two hundred and sixty-
Join. Gentry	three dollars and sixty cents, for distributing weights and measures
JA Henderson	in ten counties; Joiner Gentry, twenty-eight dollars, for victualing
F H Standifer	Wesly Cassy, a State prisoner; John A. Henderson, thirty dollars,
W J Howard	for stationery for the Chancery Court at Blountsville; Franklin H.
J Wallace	Standifer, twenty-one dollars, for making Congressional election re-
WP Petties	turns from Cherokee county; Wm. J. Howard, five hundred dollars,
Jos Greer	half value of a slave named Daniel, hung for house burning in Macon
Jas G Slater	county; James Wallace, four hundred dollars, for furnishing State
GW Williams	Capitol two thousand bushels of stone coal; Winston P. Petties, six-
H Norwood	teen dollars, for attending with criminals upon judge in several
S Frisbie	cases; Joseph Greer, fifteen dollars and twenty-five cents, for making
A Sloan	Congressional return in 1839, from Marion county; James G. Sla-
J H Owen	ter, twenty dollars, for executing negro slaves, Austin and Alfred, in
D McRay	Washington county; George W. Williams, twenty dollars, for prose-
G M Huboert	cuting negro slaves, Andrew and Frank, charged with murder in
A B Jackson	the county of Henry; Henry Norwood, fifty-five dollars, for taking
J Womack	Turil S. Bridges twice to Huntsville, from Jackson county, by order
Heirs of L M	of the judge; Samuel Frisbie, one hundred and eleven dollars and
Grigsby	eighty five cents, for victualing William P. McGrew, slave Isaac.
D H Valliant	William Savage, Josiah Haywood, and slaves Austin and Jourden;
A Lynch	A. Sloan, fifteen dollars, for making Congressional return in 1839,
A Lynch	from Shelby county; James H. Owen, three hundred and fifty dol-
	lars, for guarding State Capitol in 1839; Duncan McRay, twenty
	five dollars, for removing Michael Mathews from Barbour to Hen-
	ry county, charged with murder; George M. Hubbert, fifteen dol-
	lars and twenty-five cents, for making Congressional return, in the
	year 1839, from Fayette county; Abraham B. Jackson, ten dollars,
	for executing Daniel, a slave, in Macon county, Jesse Womack, fif-
	teen dollars and fifty cents, for making Congressional return in 1839,
	from Sumter county; the heirs at law of Luke M. Grigsby, deceased,
	five hundred and seventy-five dollars, for one half of the assessed value
	of slave named George, executed for the murder of his master, in
	Marengo county; Denton H. Valliant, thirty dollars, for attending
	the Court of Chancery at Moulton, two terms, in the year 1839;
	Augustin Lynch, one hundred and seventy nine dollars, for making
	desks and various repairs in the Hall of the House of Representatives;
	Augustin Lynch, seventy-eight dollars and twenty-five cents, for
	making writing case, drawers, table, and various repairs in Su-
	preme Court room.

Sec. 2. *And be it further enacted*, That the following sums, be. and they are hereby appropriated, for the payment of the accounts of certain persons hereinafter mentioned, for articles furnished the House of Representatives, as per certificate of John Tatom Door-Keeper, to wit: H. Perkins, twenty-four dollars twenty-five cents; Leonard B. Neal & Co. one hundred and forty-one dollars; Henry A Snow & Co. thirteen dollars and seventy-five cents; T. & W. Miller, thirty-one dollars and sixty two cents; Hogan & Lyon, forty-seven dollars and thirty cents.

H Perkins  
LB Neal & Co  
H A Snow  
T & W Miller  
Hogan &  
Lyon

Sec. 3. *And be it further enacted*, That the following sums, be, and they are hereby appropriated, to wit: to J. Lacy & Co. two hundred and six dollars and fifty cents, for stationery furnished James Gallagher, Register in Chancery at Moulton, and stationery furnished the Supreme Court; M. Kelly, Sheriff of Jefferson county, forty six dollars and eighty cents, for victualing Daniel Vinson, Samuel W. Davenport, and making Congressional return in 1839, from Jefferson county; V. Hart, two hundred and four dollars and twenty five cents, for tin and other materials used on State Capitol; R. W. Barber, Jailor of Tuscaloosa county, four hundred and ten dollars, for victualing Wm. H. Moore, Henry J. Simonton, Thomas Taylor, Abraham Thompson, Wm. Simonton, James Simonton, Enoch H. Ryal, John Hill, Robert Hurst, and William J. Hall; Edward H. Ustick, twenty dollars, for bringing up from Sumter county, the tickets of the contested election; Thomas Reans, jr. for making Congressional returns, in the year 1839, from Limestone county, nine dollars and seventy five cents.

Sec. 4. *And be it further enacted*, That the Comptroller of Public Accounts issue his warrant in favor of the following persons, to wit: to Isaac Jones, for three hundred and sixty dollars and fifty cents, being one half the valuation of a negro woman slave, who was executed; to H. W. Harriss, for twenty eight dollars, for making Congressional election return from Randolph county; to John Massey, for one hundred and thirty five dollars, for distributing standard weights and measures to nine counties; to John M. Lankford, for twenty one dollars, for making Congressional election return, from De Kalb county; to Charles Yancy, for twenty dollars, for advertising three months, an act to suppress carrying concealed weapons; to H. W. Collier, five hundred dollars, to John J. Ormond, five hundred dollars, to Henry Goldthwait, five hundred dollars, for their services, in preparing a bill regulating punishments under the Penitentiary system.

Sec. 5. *And be it further enacted*, That the Comptroller of Public Accounts, issue his warrant in favor of Thomas Ellison, for twenty five dollars, in favor of Henry Norwood, for eleven dollars and forty cents, for carrying Samuel Fain from Bellefonte to Claysville, on a change of venue; in favor of William Hutchinson, seventeen dollars and fifty cents, for making Congressional return from the county of Dale, for 1839; in favor of Philip F. Beazly, one hundred and eighty three dollars and forty cents; in favor of James C. Locke, eleven dollars and sixty cents; in favor of William Braly, for one hundred and twenty nine dollars and twenty five cents; in favor of John Tatom, one hundred and fifty six dollars and nine cents, for servant hire, boarding the same, illuminating the Capitol on the eighth of January, &c.

Sec. 6. *And be it further enacted*, That the sum of twenty thousand dollars be, and the same is hereby appropriated, for the purpose of carrying on the building of the State Prison or Penitentiary.

Approved, Feb 5, 1840.

[No. 147.]

## AN ACT

To compensate John Love, of the County of Dallas.

John Love

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of thirty dollars, be, and the same is hereby appropriated for the payment of John Love, late Jailor of the County of Dallas, for boarding Henry B. Clark, convicted of manslaughter; and that the same be paid out of any money in the Treasury not otherwise appropriated.

Approved, Feb. 5, 1840.

[No. 148.]

## AN ACT

For the relief of William E. Davis.

Wm E Davis

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened;* That the sum of two hundred dollars, is hereby appropriated to William E. Davis, for services rendered and damage sustained in the late Creek War, and the Comptroller, or the Treasurer, is hereby required to cause the same to be paid to the said William E. Davis, or his order, whenever applied for.

Approved, Feb. 5, 1840.

[No. 149.]

## AN ACT

To compensate certain persons therein named.

G Birdwell

J H Burnet

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That the persons hereinafter named shall be entitled to receive the sums of money hereinafter expressed, out of any money in the Treasury not otherwise appropriated, to wit: to George Birdwell the sum of thirty-five dollars, for hawling done for the use of Captain Donald's company, ordered into service by Governor Clay; to John H. Burnet the sum of fourteen dollars, for flour furnished Captain Shelly's company of Talladega County, in the Creek Indian War, of 1836.

Sec. 2. *And be it further enacted,* That the Comptroller of Public Accounts, be, and he is hereby authorized to draw his warrant on the Treasury in favor of the persons above named, for the sums therein specified.

Approved, Feb. 5, 1840.

[No. 150.]

## AN ACT

To compensate certain persons therein named.

J T Hood

J Baker

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of eighteen dollars and seventy-five cents, be, and the same is hereby allowed to Joshua T. Hood, for corn furnished the troops then engaged in the service of the United States, for the suppression of Creek Indian hostilities during the late war.

Sec. 2. *And be it further enacted,* That the sum of twenty-five dollars be allowed to John Baker, for forage and provisions, furnished troops while engaged in like services as above.

Sec. 3. *And be it further enacted*, That the Comptroller of Public Accounts, be, and he is hereby required to draw his warrant on the Treasurer for the above mentioned sums, to be applied as required in this act.

Approved, Feb. 5, 1840.

[No. 151.]

### AN ACT

To compensate certain persons therein named.

Whereas, Colonel H. H. Higgins, William B. Hardin and other enterprising citizens associated with them, did, at their own cost and charges, pursue and bring to justice Ransom Thornton and Mark Thornton, charged with the murder of William White of the County of —, Mississippi; therefore,

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sum of five hundred dollars, be, and the same is hereby appropriated for the payment of the said H. H. Higgins and William B. Hardin and their associates for the said services.

Sec. 2. *And be it further enacted*, That said payment shall be made out of any money in the Treasury not otherwise appropriated, and that the Comptroller issue his warrant in favor of H. H. Higgins for the said sum, on the Treasurer of the State to be distributed by the said H. H. Higgins amongst those interested, in such manner as he may think equitable and just.

Approved, Feb. 5, 1840.

[No. 152.]

### AN ACT

For the benefit of the Adjutant and Inspector General, and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sum of two hundred dollars, be, and the same is hereby appropriated to James G. Carroll, Adjutant and Inspector General, for extra services rendered in the year 1839.

Sec. 2. *And be it further enacted*, That the Comptroller of Public Accounts be required to issue his warrant to the said James G. Carroll, for the said sum of two hundred dollars, to be paid out of any money in the Treasury not otherwise appropriated.

Sec. 3. *And be it further enacted*, That the second section of an act, approved January 29, 1839, fixing the salaries of the Secretary of State, the State Treasurer, Comptroller of Public Accounts and Adjutant and Inspector General, be, and the same is hereby repealed.

Sec. 4. *And be it further enacted*, That so much of the law as was repealed, by the above recited section, be, and the same is hereby revived.

Approved, Feb. 5, 1840.

[No. 153.]

### AN ACT

Making Appropriations for the payment of certain claims against the State.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrants on the Treasurer, in favor of the following persons

for the amounts hereinafter specified, to be paid out of any money in the Treasury not otherwise appropriated, to wit: in favor of Hogan & Lyon, the sum of eight dollars and sixty-one cents; in favor of William M. Lacy, the sum of one dollar and twenty-five cents, for stationery, furnished the present General Assembly; in favour of Armstead R. Thomas, Doorkeeper of the Senate, the sum of one hundred and nine dollars and thirty-seven cents, for servants hire and his board; in favor of William W. Lowe, the sum of forty-one dollars, for articles furnished the Volunteers for the Florida war; and in favor of Nathaniel Terry, the sum of five dollars and sixty-nine cents for postage paid by him on State documents.

Approved, Feb. 4, 1840.

[No. 154.]

#### AN ACT

To compensate certain persons therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of one thousand and eighty three dollars and seven cents, be allowed to Hart & Bosworth for blankets, powder and lead, camp equipage, and articles taken from them by order of Major General William Irwin, for the use of the troops during the late Creek Indian hostilities; and that the sum of one thousand and ninety-three dollars and eighty-three cents be allowed to John Hart, for guns, powder and lead, blankets, camp equipage and articles taken from him for the use of the troops during said late hostilities by a like order of Gen. Irwin.

Sec. 2. *And be it further enacted,* That the Comptroller be, and he is hereby required to issue his warrant upon the Treasurer for the above sums in favor of said Hart & Bosworth and John Hart, to be paid to them or their order in their several proportions, out of any money in the Treasury not otherwise appropriated.

Approved, January 9, 1840.

[No. 155.]

#### AN ACT

For the relief of Joel Higgins.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Comptroller of Public Accounts, be, and he is hereby authorized and required to issue his warrant in favor of Joel Higgins, for the sum of forty-eight dollars and fifty cents, to be paid out of any money in the Treasury not otherwise appropriated, for removing Jesse Allen from the town of Marshall, in the county of Marshall, to the jail of Jackson, in the town of Bellefonte.

Approved, Jan. 29, 1840.

[No. 156.]

#### AN ACT

To provide for the payment of William Cooper, for services rendered the State during the late Creek War.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of eighty dollars, be, and the same is hereby appropriated

ted to William Cooper, for transporting arms for the use of the troops, Wm Cooper from Montgomery to Irwinton.

Sec. 2. *And be it further enacted*, That the Comptroller of Public Accounts draw his warrant upon the Treasurer, in favor of William Cooper, for the above amount: *Provided*, That the said William Cooper shall first file his affidavit, in writing, with the Comptroller of Public Accounts, that he has never received payment for the said service, or any part thereof, either from this State or the United States. Proviso.

Approved, Feb. 5, 1840.

[No. 157.]

### AN ACT

Making an allowance to Jacob Murph, of Autauga County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sum of one hundred and twenty-five dollars, be, and the same is hereby allowed to said Jacob Murph, as the value of a horse Jacob Murph lost by him in the pursuit of three men charged with the crime of murder, and absconding from the State; to be paid out of any money in the Treasury not otherwise appropriated.

Approved, Feb. 3, 1840.

[No. 158.]

### AN ACT

To compensate Hardin Perkins.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That whereas additional expense was incurred, and great additional labor performed by Hardin Perkins, in consequence of his having been required as President of the State Bank, to appoint agents, and keep up a lengthy correspondence for the purpose of negotiating the last issue of State Bonds, authorized to be sold for said Bank and each of its Branches; the sum of five hundred dollars is hereby appropriated for the purpose of compensating said Perkins; and the Comptroller is authorized to draw his warrant accordingly. Har. Perkins

Approved, Feb. 5, 1840.

[No. 159.]

### AN ACT

To provide for the payment of a certain claim, due to the heirs of Darling S. Massey, deceased.

Whereas, there was, by an act, approved June 30, 1837, the sum of five hundred dollars appropriated and paid over to Nancy L. Massey, administratrix of Darling S. Massey, deceased, purporting to be one half the value of a slave, Clark, executed by the sheriff of Marengo county; and whereas, it appears from the decree of the Court under whose sentence the said slave was executed, as well as from the certificate of the jurors who appraised said slave, that he was appraised to eleven hundred dollars, and that the Court decreed the sum of five hundred and fifty dollars to be paid as one half of the value of said slave; it therefore appears that there is the sum of fifty dollars yet due said estate: Therefore, Preamble.



Jos Massey

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of fifty dollars be, and the same is hereby appropriated for the benefit of the heirs of Darling S. Massey and Nancy L. Massey, deceased, subject to be drawn by Joseph Massey, the guardian of the minor heirs of the aforesaid Darling S. Massey and Nancy L. Massey, deceased, to be paid out of the State Treasury.

Approved, Feb. 4, 1840.

[No. 160.]

## AN ACT

For the relief of Cortes D. Kavanaugh.

C D Kavanaugh

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That the Comptroller of Public Accounts be authorized and required to issue his warrant on the Treasurer, for the sum of eighty eight dollars and fifty cents, in favor of Cortes D. Kavanaugh, for removing Jesse Allen from the jail of Madison county, to the town of Marshall, in the county of Marshall, and for the necessary expenses incurred by such removal, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, Jan. 29, 1840.

[No. 161.]

## AN ACT

Making appropriations for M. D. J. Slade and C. C. Baldwin.

M D J Slade

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That the sum of six hundred and eighty dollars, be, and the same is hereby ordered to be paid out of any money in the Treasury, not otherwise appropriated, to M. D. J. Slade, of the city of Tuscaloosa, for printing Penal Code, and other public documents.

C C Baldwin

Sec. 2. *And be it further enacted,* That the sum of twenty five dollars be, and the same is hereby appropriated, out of any money in the Treasury, not otherwise appropriated, to C. C. Baldwin, for printing executed for the State.

Approved, Feb. 5, 1840.

[No. 162.]

## AN ACT

To compensate certain persons therein named.

A Warren

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the following sums of money be, and the same are hereby appropriated and set apart, out of any money in the Treasury not otherwise appropriated, to be paid to the persons hereinafter named, for bacon and other articles of subsistence furnished the troops, in the service of the United States, under the command of Colonel William Wellborn, to wit: to Abraham Warren the sum of five hundred and eighty-seven dollars and seventy-five cents; and to Thomas Shuffield the sum of twenty dollars.

Sec. 2. *And be it further enacted,* That the Comptroller of Public Accounts, be, and he is hereby authorized and required to draw his warrant on the State Treasurer, for sums of money in favor of the persons as above mentioned.

Approved, Feb. 1, 1840.

## AN ACT

To compensate certain persons therein named.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of two hundred dollars, each, be, and the same is hereby appropriated for the payment of Alexander Bowie and William B. Martin, for services rendered the State as Commissioners under the appointment of the Governor to examine and mark out the boundary line between this State and the State of Georgia. A Bowie  
W B Martin

Sec. 2. *And be it further enacted,* That the Comptroller of Public Accounts, be, and he is authorized to draw his warrant on the Treasurer for the above amount, to be paid out of any money in the Treasury not otherwise appropriated. Approved Feb. 1, 1840.

[No. 164.]

## AN ACT

For the compensation of Fielding Snow, Jailor of Benton County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Comptroller of Public Accounts, be, and he is hereby required to issue his warrant on the Treasury, in favor of Fielding F Snow, the Jailor of Benton County, for the sum of sixty-four dollars and sixty cents, for boarding Daniel McDowell, charged with horse stealing, and Reuben Burch, charged with a riot, and Francis Campbell, charged with murder; and that the same be paid out of any money in the Treasury not otherwise appropriated.

Approved, Jan. 31, 1840.

[No. 165.]

## AN ACT

To compensate Thomas J. Hawkins, for articles furnished the Troops whilst in the service of the United States.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Comptroller of Public Accounts, be, and he is hereby authorized to draw his warrant upon the Treasurer for any money in the Treasury not otherwise appropriated, to Thomas J. Hawkins, the sum of sixty dollars, for cartridge boxes, furnished the troop of Rangers, whilst in the service of the United States. J Hawkins

Approved, Jan. 31, 1840.

[No. 166.]

## AN ACT

Making Appropriations for the payment of the Members of the present General Assembly and the Officers of the two Houses, and for other purposes.

Section. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of forty-five thousand dollars, be, and the same is hereby appropriated, for the payment of the members of the present General Assembly, and the officers of the two Houses, out of any money in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted,* That the sum of two thousand dollars, be appropriated to the State Printers, for extra services performed by them during the past year. Hale & Eaton Approved, Jan. 21, 1840.

[No. 167.]

## AN ACT

In relation to Big Bear Creek, in Franklin County.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That that portion of Big Bear Creek, which is below Cotton Gin road, in Franklin county, be, and the same is hereby declared to be a public highway, free for all the purposes of navigation, for which it is or may hereafter be rendered useful to the public. And whereas, a portion of said stream, runs in the State of Mississippi,

Public highway.

Sec. 2. *And be it further enacted,* That His Excellency, the Governor, be requested to forward a copy of this act, to His Excellency, the Governor of the State of Mississippi, as early as convenient, and respectfully request the passage of a similar act, in relation to said water course, if necessary, by the Legislature of that State.

Approved, Jan. 29, 1840.

# JOINT RESOLUTIONS AND MEMORIALS.

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## JOINT RESOLUTIONS

In relation to Public Lands in Alabama.

Whereas, the unappropriated Lands of the General Government lying within the chartered limits of the State of Alabama, are, with the exception of a very small portion thereof, extremely poor and unsaleable; and whereas, by a reduction of the price and a prudent disposition of the same, on the part of this State, portions of said Lands which will otherwise long remain a wilderness, can be rendered productive as furnishing small settlements to many and valuable citizens.

1. *Be it therefore resolved, by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the State of Alabama should become the sole proprietor of all the unappropriated lands within the chartered limits thereof, if the same can be procured upon reasonable terms.

2. *Be it further resolved,* That the Senators from Alabama in the Congress of the United States, be, and they are hereby instructed, and the Representatives from this State are respectfully requested, to present the subject of the foregoing resolution to the Congress of the United States, at the earliest practicable moment, and that they use their exertions to procure the passage of such an act as will enable this State to effect the object contemplated in said resolution.

3. *Be it further resolved,* That a gradual reduction in the price of the public lands would contribute to their early settlement, and conduce to the general welfare of the country.

4. *Be it further resolved,* That the Governor of this State be requested to transmit to the Senators and Representatives in Congress from this State, respectively, copies of the foregoing resolutions.

Approved, Jan. 3, 1840.

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## PREAMBLE AND JOINT RESOLUTIONS.

Whereas, on the 8th of January, 1815, one of the most unparalleled, and decisive victories, ever achieved, so far as we are informed by history, either in Europe or America, was achieved: And whereas, this General Assembly are of opinion, that this glorious result was brought about mainly by the unusual sagacity and indomitable military ardor of the commander in chief, ANDREW JACKSON, together with the spirit of subordination, both of officers and soldiers, who with but one spirit and one object, and that, victory or death, met the hitherto invincibles of Wellington's army, on the aforesaid 8th of January, on the plains of New-Orleans, and then and there, by their heroic and unrivalled military prowess, taught them a lesson that should deter any foreign foe from ever attempting again to invade our shores: And whereas, it is the deliberate opinion of the General Assembly, that for the emulation of those who succeed us, each annual return of this memorable day, should be commemorated in some

appropriate way: And whereas, information has been received by members of this General Assembly, that General Andrew Jackson is expected to be in the city of New-Orleans, by invitation from the citizens of said city, on the said 8th of January, in the year of our Lord, one thousand eight hundred and forty; therefore,

1. *Be it resolved, by the Senate and House of Representatives of the State Alabama in General Assembly convened,* That we do hereby earnestly request the venerable Patriot of the Hermitage, General Andrew Jackson, to return to his residence by way of the city of Tuscaloosa, where his fellow citizens desire to have an opportunity of showing him that respect due to his distinguished public services.

2. *Resolved further,* That the Governor be requested to transmit a copy of the foregoing preamble and resolutions, to the Governor of the State of Louisiana, with a request to him, to have the same presented to General Jackson, if in the city of New Orleans.

3. *Resolved,* That the doorkeepers of the Senate and House of Representatives, are hereby directed to proceed to illuminate in the usual way, on the night of the 8th of this instant, their respective Houses, in commemoration of the glorious victory won by the American arms on the aforesaid 8th of January, 1815.

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#### PREAMBLE AND JOINT RESOLUTIONS

Of the State of Alabama in General Assembly convened, touching certain Mail Routes.

Whereas, a daily line of Post Coaches, from the western termination of the Georgia Rail Road to Memphis, on the Mississippi river, running through the Tennessee Valley, in North Alabama, recommends itself to the public attention, from the great facility which it will afford to travellers passing from the Atlantic to the Western States, by a speedy and more agreeable route than any that now exists, and by which the mail communication, would be greatly expedited between the Atlantic States and the whole Western Country, on account of the great amount of rail road improvements completed and in progress, the General Assembly of the State of Alabama, now in session, feeling the importance of establishing this line of communication, indulge the hope that the Post Office Department, shall be required, without delay, to carry into operation, this most desirable object: Therefore,

1. *Be it resolved, by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That our Senators be instructed, and our Representatives be requested, to use their exertions to have established, at as early a day as it can be done consistent with the public interest, the route contemplated in the foregoing preamble.

2. *Be it further resolved,* That our Senators be instructed, and our Representatives requested, to use their exertions, to have established by law, as soon as convenient, a daily mail route, from Madison in Morgan county, of four horse Post Coaches, to the city of Tuscaloosa, to go by the way of Covington, McDonough, Zebulon, Greenville and Lagrange, West Point, Georgia, La Fayette, Dadeville, Wetumpka, Maplesville, Centerville, to Tuscaloosa, in Alabama, it being the only safe bridged route from the western termination of the Georgia Rail Road to Tuscaloosa.

3. *Be it further resolved,* That our Senators be instructed, and our Representatives requested, to apply to the proper authorities to have established by law, as soon as convenient, a mail route three times a week, each way, from

Augusta, Georgia, to Tuscaloosa, Alabama, the mail to be carried on the Georgia Rail Road to its western termination, thence by four horse Post Coaches to Tuscaloosa, three times a week, to go by the following places, Madison, Morgan county, Covington, Newton county, McDonough, Henry county, Fayetteville, Fayette county, Newnan, Coweta county, Carrollton, Carroll county, thence by Aberchoochee Gold Mines, in Randolph county, Talladega, Kymulga, Columbiana, Montevallo, Centerville, thence to Tuscaloosa.

4. *Be it further resolved*, That His Excellency, the Governor, be requested to forward a copy of the preamble and foregoing resolutions to each of our members in Congress.

Approved, Feb. 5, 1840.

#### PREAMBLE AND JOINT RESOLUTIONS

On the subject of Claims growing out of Indian hostilities in this State.

Whereas, during the hostilities of the Creek and Seminole Indians during the years eighteen hundred thirty-six and eighteen hundred thirty-seven, many companies of Militia and Volunteers were organized for the temporary defence of the country, and in many instances the troops called into service by and under the authority of the United States, were organized in great haste and at points where no supplies of provisions or forage had been provided, under these circumstances many officers made purchases and many patriotic citizens, furnished provisions and forage for the use of the military force thus armed for the defence of the country, from the haste and confusion which prevailed at the commencement of hostilities, and often from the nature of the service the supplies could not be regularly obtained or distributed, in consequence of which the accounts were not rendered in such form as to enable the disbursing officers of the United States Army to settle them,

And whereas, the State of Alabama satisfied with the justice of these claims, and unwilling to subject those who had so generously contributed their services or their property to the defence of the country, to the tedious delay which often necessarily occur in the settlement of claims of this description, have by different laws passed for that purpose, caused such claims to be paid, amounting to one hundred and seven thousand three hundred and eighty-five dollars and forty-five cents.

*Be it therefore resolved, by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the accounts paid by this State for the service of local troops for forage and provisions furnished armed companies in the service of the State or of the United States, and for provisions furnished the friendly Indians, during the hostilities of a portion of their tribe, constitutes a claim upon the Government of the United States, the justice and equity of which will be readily acknowledged.

*Resolved*, That His Excellency, the Governor, be, and he is hereby authorized to cause a statement of the aggregate amount paid under the different acts of the General Assembly, for the purposes herein mentioned, to be made out and certified by the Comptroller of Public Accounts and the Treasurer of this State, and cause the same to be presented to the War Department of the United States, for payment.

*Resolved*, That the Governor be requested to forward a copy of these resolutions to each of our Senators and Representatives in Congress.

Approved, Jan. 31, 1840.

## JOINT RESOLUTIONS

Of the General Assembly of the State of Alabama, touching stay of Bank Executions.

Whereas, the people of the State, and more particularly the middle counties, in consequence of the unusually dry season and low water, have been prevented from carrying their crops to market, or realizing the proceeds in any way; and whereas, a great many executions have issued, especially from the State Bank, which have been placed in the hands of the Sheriffs, which must be returned satisfied or otherwise, before the present crops can well be disposed of, which will, in all probability, cause ruinous sacrifices, on account of the vast and unprecedented decrease of circulation.

*Be it therefore Resolved, by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That whenever the Directory of the State Bank or either of its Branches, shall be well satisfied that the debts are as secure as they can be made, the executions or judgments so situated as to create a lien on the property of defendants, or that no loss will be sustained by delay, the Directory are hereby authorized and advised to direct a stay on further proceedings, at least until the proceeds of the present crop can be realized.

Approved, Jan. 30, 1840.

## JOINT RESOLUTIONS

In relation to the boundary line between the States of Alabama and Georgia.

*Be it Resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Governor be, and he is hereby required to forward a copy of the resolutions recognizing and establishing the boundary line between the States of Alabama and Georgia, to the Governor of Georgia, and a copy of the same to the President of the United States, with a request, that he will cause that portion of the public lands bordering upon the line above referred to, and lying within the limits of the State of Alabama, not heretofore surveyed, to be surveyed and disposed of, as soon as practicable.

Approved, January 31, 1840.

## JOINT RESOLUTIONS

In relation to the Line between Georgia and the State of Alabama.

Whereas, in the opinion of this General Assembly, a fixed and known line between this State and Georgia, is of far higher consequence to us, than the acquisition of an inconsiderable portion of territory; therefore,

*Be it resolved, by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the State of Alabama will, and do hereby accept as the true dividing line, between this State and that of Georgia, the line which was run and marked out by the Commissioners of Georgia in eighteen hundred and twenty-six, beginning at what is called Miller's Bend on the Chattahoochee river, thence along said marked line to Nickajack.

Approved, Jan. 27, 1840.

## JOINT MEMORIAL

Of the General Assembly of the State of Alabama, to the Congress of the United States, in relation to a land District in the Cherokee Nation.

Your Memorialists beg leave to represent to your honorable body, that the portion of the Cherokee Nation, which is in the State of Alabama, forms three counties, which are settled with a dense population, and very great inconvenience to the people will be occasioned by attaching those counties to any one or



more of the Land Districts now established in Alabama. Your Memorialists, therefore, ask that a Land Office be established, at some convenient point, in one of the counties in the late Cherokee purchase.

*Resolved*, That our Senators and Representatives in Congress, be requested to use their best efforts to pass a law in accordance with the foregoing memorial.

*Resolved*, That the Governor be instructed to transmit a copy of the foregoing memorial to each of our Senators and Representatives in Congress.

*Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to use their efforts to have a law passed, reducing the minimum price of the public lands.

Approved, Jan. 2, 1840.

#### JOINT MEMORIAL

To the Congress of the United States, on the subject of the Pre-emption Laws.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled: The memorial of the General Assembly of the State of Alabama, respectfully represents—that by the wise policy of the government of the United States in relation to the public lands, homes have been secured to that industrious, enterprising and meritorious class of citizens, who are the first to fell a towering forest, and first to repel an invading enemy: And whereas, Congress in the passage of the late pre-emption law, failed to provide for that portion of the settlers on public lands, lying within this State, where improvements are covered by sixteenth sections, and sites for seats of justice for the different counties: And whereas, in the passage of the pre-emption law of eighteen hundred and thirty-four, another portion of the settlers on the public lands, lying in the Creek country, were also unprovided for: And whereas, under the construction placed upon the first mentioned act, many citizens are excluded from its beneficial provisions, by confining settlers to the lands upon which their dwellings stood, it often times happening that settlers made improvements for purposes of cultivation, upon the rich and fertile lands adjacent to rivers and creeks, while their dwellings are in the pine hills: And whereas, many meritorious persons have settled on said lands, since the passage of the late pre-emption law, who, under the provisions of that law, are not entitled to its benefits, now, in view of the foregoing suggestions, this General Assembly would respectfully ask, that you may pass such laws in relation to the foregoing subjects, as will extend the right of pre-emption to the foregoing settlers, by permitting them to enter one hundred and sixty acres of any land within the country lately acquired by treaty from the Cherokee Indians, not otherwise reserved from sale, and that the late pre-emption law may be so amended as to extend its benefits to all those who have settled on the public lands since its passage.

1st. *Resolved*, by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That our Senators and Representatives in Congress, be requested to use their efforts to procure the passage of a law, embracing the objects of the foregoing memorial.

2d. *Resolved*, That the Governor be requested to transmit a copy of the foregoing memorial and resolutions, to each of our Senators and Representatives in Congress.

Approved, Dec. 17, 1839.

DEPARTMENT OF STATE, Tuscaloosa, (Ala.) March 20, 1840.

I have carefully examined the foregoing Acts, Resolutions, and Memorials, and find them to be true copies of the original rolls, on file, in this Office.

T. B. TUNSTALL, *Secretary of State*.

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